

## *Minute Action*

AGENDA ITEM: 10

**Date:** August 4, 2010

**Subject:** Cooperative Agreement No. C11021 with Union Pacific Railroad (UPRR) and Burlington Northern and Santa Fe Rail Railroad (BNSF) for the Colton Crossing Rail Grade Separation Project

**Recommendation:**\* Approve Cooperative Agreement C11021 with Union Pacific Railroad (UPRR) and Burlington Northern and Santa Fe Railroad (BNSF) for design services for the Colton Crossing Rail Grade Separation Project.

**Background:** This is a new Cooperative Agreement. The Colton Crossing consists of two north/south BNSF tracks and two east/west UPRR tracks which intersect at-grade in Colton. The majority of passenger and freight rail between the Los Angeles Basin and destinations to the east pass through the Colton Crossing. Consequently, frequent delays are incurred resulting in congestion at this at-grade crossing because trains of two national railways must stop and wait for the other trains on conflicting tracks to pass. The proposed improvements will reduce the delays at the crossing, thus improving reliability of passenger and freight trains; improve air quality by reducing the time that locomotives spend idling; and create employment opportunities related to the construction of this \$200 million major improvement project.

On May 7, 2010 the California Transportation Commission (CTC) programmed \$91,305,000 in Trade Corridor Improvement (TCIF) funds, subject to certain conditions, for the Colton Crossing project. On February 17, 2010, \$33.8 million of Transportation Investment Generating Economic Recovery (TIGER) funds were

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*Approved*  
*Board of Directors*

Date: \_\_\_\_\_

Moved: \_\_\_\_\_ Second: \_\_\_\_\_

In Favor: \_\_\_\_\_ Opposed: \_\_\_\_\_ Abstained: \_\_\_\_\_

Witnessed: \_\_\_\_\_

<input type="checkbox"/>	COG	<input type="checkbox"/>	CTC	<input checked="" type="checkbox"/>	CTA	<input type="checkbox"/>	SAFE	<input type="checkbox"/>	CMA
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Check all that apply  
 BRD1008i-gc  
 Attachment: C11021

granted to the project, one of three projects in the State. The remaining project funding is being provided by the railroads.

For reasons described in previous Agenda Items on Colton Crossing, the CTC requested and SANBAG accepted the role of being the lead on the Colton Crossing project. The Colton Crossing TCIF Baseline Agreement and the associated Memorandum of Understanding (MOU) were approved by SANBAG on May 15, 2010. The MOU identifies the general terms and requirements, and roles and responsibilities of the parties associated with the project. One of the requirements is for the SANBAG and the railroads to enter into an agreement for design services.

This item is the subject of the Design Cooperative Agreement which further defines roles, responsibilities and cost sharing for this phase of the project. The agreement reconfirms SANBAG's responsibility for completing the Environmental Document and for design up to a level of twenty-five percent. SANBAG's responsibilities also include overseeing the design to ensure that it is in compliance with the Baseline agreement, the MOU and for compliance with the environmental mitigation measures. SANBAG services performed under this Cooperative Agreement are funded in whole by the railroads. Upon delivery of the preliminary design, UPRR will take the lead in developing the design of the structures, track and signal systems at the railroad's cost. BNSF shall be responsible for designing any signal modifications along its north south mainline. As the project moves towards construction, a future cooperative agreement will be prepared to address the construction phase of the project.

Staff is recommending that the Board approve Cooperative Agreement C11021 by and between SANBAG, BNSF and UPRR railroads for the design phase of the Colton Crossing Rail-Grade Separation Project. The Agreement shall be finalized prior to Board approval, and will be included in the Board Agenda package.

**Financial Impact:** SANBAG will be reimbursed in an estimated amount of up to \$150,000 for their expenses related to design review.

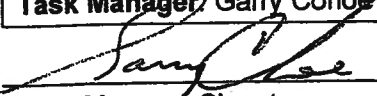
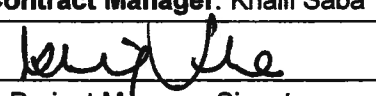

**Reviewed By:** This item was reviewed and unanimously recommended for approval by the Major Projects Committee on July 15, 2010. SANBAG Counsel has reviewed and approved the agreement to form.

**Responsible Staff:** Garry Cohoe, Director of Project Delivery

SANBAG Contract No. C11021  
by and between  
San Bernardino Associated Governments and Union Pacific Railroad (UPRR)  
And Burlington Northern Santa Fe Railroad (BNSF)  
for Design of The Colton Crossing Grade Separation Project

FOR ACCOUNTING PURPOSES ONLY						
<input type="checkbox"/> Payable <input checked="" type="checkbox"/> Receivable	Vendor Contract # _____ Vendor ID _____	Retention: <input type="checkbox"/> Yes _____ % <input type="checkbox"/> No	<input checked="" type="checkbox"/> Original <input type="checkbox"/> Amendment			
Notes: Third Party Agreement. SANBAG to be reimbursed from 3 <sup>rd</sup> parties up to \$150,000 for Design Review Costs.						
Original Contract: \$ 150,000  Contingency / Allowance Amount \$ 0	Previous Amendments \$ _____ Previous Amendments \$ _____ Contingency / Allowance Total: Current Amendment: \$ _____ Current Amendment Contingency / Allowance: \$ _____					
Contingency Amount requires specific authorization by Task Manager prior to release.						
<b>Contract TOTAL ►</b>			<b>\$ 150,000</b>			
* Funding sources remain as stated on this document unless and until amended by proper authority. Funding sources are those which are ultimately responsible for the expenditure.						
▼ Include funding allocation for the original contract or the amendment						
Main Task/ Project	Level 1	Level 2	Cost Code/ Object	Grant ID/ Supplement	Funding Sources/ Fund Type (Measure I, STP, CMAQ, etc.)	Amounts for Contract Total or Current Amendment Amt
0879	6010	000	4800510	_____	BNSF	\$ 25,650
0879	6010	0000	4800515	_____	Union Pacific	\$ 124,350
_____	_____	_____	_____	_____	_____	\$ _____
Original Board Approved Contract Date: <u>8/4/10</u>				Contract Start: <u>8/4/10</u>		Contract End: <u>12/31/14</u>
New Amend. Approval (Board) Date: _____				Amend. Start: _____		Amend. End: _____
Allocate the <b>Total Contract Amount</b> or <b>Current Amendment</b> amount between <b>Approved Budget Authority</b> in the current year and <b>Future Fiscal Year(s) Unbudgeted Obligation</b> .						
<b>Approved Budget Authority ►</b>		Fiscal Year: <u>10/11</u> \$ <u>0</u>		<b>Future Fiscal Year(s) – Unbudgeted Obligation ►</b>		\$ <u>0</u>
<input type="checkbox"/> Budget authority for this contract currently exists in Task No. _____ (C-Task may be used here.).						
<input type="checkbox"/> A budget amendment is required. A Budget Amendment Request is attached.						

CONTRACT MANAGEMENT	
<b>Check all applicable boxes:</b>	
<input checked="" type="checkbox"/> Intergovernmental	<input type="checkbox"/> Private
<input type="checkbox"/> Disadvantaged Business Enterprise (DBE)	<input type="checkbox"/> Underutilized DBE (UDBE)
<input type="checkbox"/> Federal Funds	<input type="checkbox"/> State/Local Funds

<b>Task Manager:</b> Garry Cohoe	<b>Contract Manager:</b> Khalil Saba
 Task Manager Signature	 Project Manager Signature
Date <u>7/27/10</u>	Date <u>7.27.10</u>
 Chief Financial Officer Signature	Date <u>7/27/10</u>

**COOPERATIVE AGREEMENT C11021**

**FOR ENGINEERING DESIGN**

**FOR COLTON CROSSING RAIL GRADE-SEPARATION PROJECT**

This AGREEMENT REGARDING ENGINEERING DESIGN FOR THE COLTON CROSSING RAIL GRADE-SEPARATION PROJECT ("Agreement") is made this \_\_\_\_\_ day of August 2010, by and between UNION PACIFIC RAILROAD COMPANY, a Delaware corporation ("UPRR"), BNSF RAILWAY COMPANY, a Delaware corporation ("BNSF"), and SAN BERNARDINO ASSOCIATED GOVERNMENTS, a joint powers agency ("SANBAG") (UPRR, BNSF and SANBAG are each a "Party" and collectively the "Parties").

**RECITALS**

A. The Colton Crossing consists of two BNSF San Bernardino Subdivision mainline tracks that run north/south and cross two UPRR Yuma Subdivision mainline tracks that run east/west. The BNSF and UPRR tracks cross at grade and perpendicular to one another. The railroads own or have the right to use and operate over the real property and rail facilities at and near the Colton Crossing. The Parties propose undertaking the construction of a grade separation to elevate the UPRR mainline tracks and permit trains traveling on the BNSF tracks to pass beneath the UPRR tracks without conflict of movement (the "**Project**").

B. On November 7, 2006, California voters approved The Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 as Proposition 1B (the "**Act**"). The Act provided for \$2 billion to be transferred to the Trade Corridors Improvement Fund (the "**TCIF**") for infrastructure improvements along corridors having a high volume of freight movement. On May 19, 2010, the California Transportation Commission ("**CTC**") unanimously voted to program ninety-one million three-hundred thousand dollars (\$91,300,000) in TCIF funds for the Project.

C. On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act ("**ARRA**"). Among other things, the ARRA created the Transportation Investment Generating Economic Recovery ("**TIGER**") program. The TIGER program authorizes the Secretary of Transportation to issue up to \$1.5 billion in grants on a competitive basis for capital investments in surface transportation infrastructure projects that will have a significant impact on the nation, a metropolitan area, or a region. Passenger and freight rail projects are among those eligible for TIGER grants. The ARRA authorizes funding for TIGER grants through September 30, 2011. In cooperation with the railroads, the California Department of Transportation ("**Caltrans**") applied for TIGER funding for the Project. On February 17, 2010, the Secretary of Transportation granted \$33.8 million in TIGER funds for the Project. The Federal Highway Administration ("**FHWA**") and Caltrans are in the process of finalizing the TIGER Grant Agreement for the Project. Caltrans, SANBAG, and UPRR will sign a series of ("**Cooperative Agreements**") outlining the terms agreed upon in the TIGER Grant Agreement.

D. Combining the TCIF funds, the TIGER grant, and funds pledged by UPRR and BNSF, per the Memorandum of Understanding among the Parties dated May 5, 2010 (the "**MOU**"), the

Project is now fully funded subject to finalizing and entering into definitive agreements as described in this Agreement.

E. The Parties now desire to enter into this Agreement for purposes of defining the roles and responsibilities of the Parties with respect to designing the Project. Issues related to property acquisition for and construction of the Project will be addressed through separate agreements, and nothing in this Agreement shall obligate any party with respect to future agreements.

#### AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

1. Definitions. As used in this Agreement, the following terms shall have the following meanings:

"Construction Bid Package" means the final plans, specifications and contract requirements from which bids to complete the construction are received.

"Engineering Design" means an engineering design for the construction of structures, track, and signal system related to the Project to a level of one hundred percent (100%) and approved in writing by BNSF and UPRR.

"Engineering Design Commencement Date" means the date upon which UPRR and BNSF begin design work that shall be reimbursable as set forth in Section 2(b).

"Engineering Design Completion Date" means the date on which the Engineering Design of the Project has been completed.

"Engineering Design Contract" means a contract executed between UPRR and an Engineering Firm (which may be a master contract) for completion of all or part of the Engineering Design.

"Engineering Firm" means the firm or firms retained by UPRR or BNSF to complete their respective portions of the Engineering Design.

"Environmental Document" means documentation required to demonstrate compliance with CEQA and NEPA.

"Estimated Design Cost" shall have the meaning given in Section 2(a) (i) below.

"Estimated Review Cost" shall have the meaning given in Section 2(a) (i) below.

"Project" means constructing a structure to elevate the UPRR mainline tracks and permit trains traveling on the BNSF tracks to pass beneath the UPRR tracks without conflict of movement, as shown on Exhibit A attached hereto and incorporated herein by this reference. Components associated with the Project include, but are not limited to, designing of the structure, real estate acquisition, site preparation, environmental review, obtaining any permits or other approvals, constructing temporary shoofly tracks, roadbed and track, signal systems, access roads, storm water drainage remediation, and other ancillary facilities.

"Review Work" shall have the meaning given in Section 2(d) below.

2. Engineering Design.

(a) Selection and Cost.

- (i) Estimated Design and Civil Design Review Cost. The Parties acknowledge that the estimated total cost for achieving completion of the Engineering Design is Eleven Million Four Hundred Seventy Thousand Dollars (\$11,470,000) ("**Estimated Design Cost**"), and that the estimated total cost for Review Work is One Hundred Twenty Thousand Dollars (\$120,000) ("**Estimated Review Costs**"). These amounts are estimates for planning purposes only and shall not serve as a cap on the actual costs that may be incurred in relation to designing the Project. Engineering Design shall be performed by the parties as described below:
- (A) SANBAG will be responsible for publishing the draft Environmental Document for public review. Upon publication of the Environmental Document, the Parties shall consult with one another regarding its effect on the feasibility of the Project. SANBAG anticipates that NEPA and CEQA environmental clearances will be received by July 1, 2011, subject to delay arising from any legal challenge.
- (B) UPRR shall take the lead in developing the design of the Project and will be responsible for designing the structures, track, and signal system associated with the grade-separation structure along its east / west mainline (Alhambra and Yuma subdivisions). UPRR understands that SANBAG will deliver design engineering completed to a level of twenty-five percent (25%) to UPRR and BNSF by August 16, 2010. Upon receiving this design, UPRR will take over the design lead. UPRR will complete the final Construction Bid Package when UPRR and BNSF have approved the Engineering Design.
- (C) BNSF will be responsible for designing any signal modifications along its existing north / south mainline, not including the connection track between BNSF's north / south mainline and UPRR's east / west mainline in the northwest quadrant of the diamond. BNSF agrees to provide its design plans to UPRR in order for the design to be included in the overall design plan.
- (ii) UPRR and BNSF will work with applicable Federal and State agencies to determine appropriate provisions for inclusion in the Construction Bid Package to the extent approved by UPRR and BNSF.
- (iii) Selection of Engineering Firm. UPRR and BNSF may use their own staff and/or may select one or more Engineering Firms from their pre-qualified lists of approved engineering firms capable of performing their respective portions of the Engineering Design, for completion of their respective portions of the Engineering Design based upon UPRR and BNSF's existing practices and procedures. If UPRR and BNSF retain an Engineering Firm for any portion of such work, they shall execute an Engineering Design Contract with such firm. SANBAG acknowledges that UPRR, BNSF, and/or

the Engineering Firm may retain subconsultants to prepare studies, surveys and reports as part of the Engineering Design process.

- (b) BNSF will deliver signal design engineering pursuant to 2(a)(i)(C) to a level of 90 percent (90%) to UPRR within 120 days after UP 's track designer supplies sixty percent (60%) track plans.
- (c) Completion. Subject to matters beyond the reasonable control of UPRR, the Engineering Design Completion Date shall be on or before July 18, 2011. Any Engineering Design Contract executed by UPRR and / or BNSF shall include in it (1) a requirement that all work for the Engineering Design covered by such contract be completed on or before July 15, 2011 and (2) a provision that time is of the essence.
- (d) Review Work. SANBAG shall review and comment on the Project plans, specifications, and cost estimate to ensure that the design is in compliance with the scope of the project as defined in Exhibit B of the MOU and that required Federal, State and environmental requirements are included in the Construction Bid Package. SANBAG shall provide comments within one week of receiving the information.
- (e) Payment of Costs. UPRR and BNSF shall pay for one hundred percent (100%) of fees and other charges incurred for the Engineering Design as follows:
  - (i) UPRR shall pay all bills for the services of any Engineering Firm it engages.
  - (ii) BNSF shall pay all bills for the services of any Engineering Firm it engages.
  - (iii) Any costs incurred by UPRR or BNSF in relation to designing the Project including costs for work done by a railroad's internal engineering staff since the award of TCIF funding on May 19, 2010, will count towards that railroad's committed contribution as outlined in Exhibit C ("Funding Plan") and clarified in Exhibit G of the MOU.
  - (iv) UPRR and BNSF will provide monthly documentation to SANBAG of payments made to consultants and internal time and costs consumed for designing or reviewing the design of the Project.
  - (v) Pursuant to Section 2(e)(ii), UPRR and BNSF will be applying their federally audited labor additive rates for all direct and indirect overhead labor / construction costs. In no event will SANBAG be responsible for reimbursement of any Engineering Design or Review Work.
  - (vi) UPRR and BNSF will reimburse SANBAG for its Review Work. SANBAG will submit an invoice for all direct and overhead costs. Reimbursement for these costs shall be made within 30 days of receipt of the invoice. SANBAG represents that it has legal authority to be reimbursed by UPRR and BNSF.
- (A) UPRR agrees to pay 82.9% and BNSF agrees to pay 17.1% of the Review Work up to One Hundred Fifty Thousand Dollars (\$150,000) in total pursuant to Section 25(a)(i). SANBAG will provide individual billing to UPRR and BNSF.

- (B) If the Review Work exceeds One Hundred Fifty Thousand Dollars (\$150,000) in total, the Parties shall consult with one another regarding its effect on the Project.

3. Right to Audit. UPRR and BNSF agree that SANBAG and any authorized representative, designated in writing to UPRR and BNSF, shall have the right at all reasonable times during normal business hours to examine all of UPRR's and BNSF's financial books and records with respect to this Agreement and any Engineering Design Contracts entered into by UPRR and BNSF pursuant to this Agreement. UPRR and BNSF agree to make available to SANBAG during regular business hours all such books and records at the locations where maintained by UPRR and BNSF. UPRR and BNSF agree to retain all such books and records for a period of three (3) years from the later of: (a) the date on which this Agreement is terminated; or (b) the date on which such book or record was created.

4. Default. If any Party breaches or fails to comply with any of the covenants, terms, or conditions of this Agreement, any non-breaching Party may provide a written notice of default to the breaching Party. If the breaching Party has not cured such default within thirty (30) days following receipt of such notice, or such longer period as the non-breaching Party may allow, the non-breaching Party may terminate this Agreement and/or may exercise any remedy available at law or in equity. A Party would not be in breach if the obligation reasonably required more than 30 days to complete performance and the party commenced performance within the 30 day period and thereafter diligently pursued completion of performance.

5. Term. This Agreement shall become effective upon execution by the Parties and continue in full force and effect through completion of construction of the Project, which is anticipated to be on or about December 31, 2014. Notwithstanding any other provision herein, any Party may terminate this Agreement at any time, with or without cause, by giving thirty (30) days written notice to the other Parties. In the event of a termination, each Party shall remain liable for any costs or other obligations it may have incurred under the terms of the Agreement prior to termination.

6. Miscellaneous.

(a) Governing Law. Except on subjects preempted by Federal law, this Agreement shall be governed by and construed in accordance with the laws of the State of California.

(b) Headings. The Section headings in this Agreement are for convenience only and shall not be used for any purpose in the interpretation of this Agreement.

(c) Severability. If any clause or provision of this Agreement is illegal, invalid, or unenforceable under applicable present or future laws, then it is the intention of the parties that the remainder of this Agreement shall not be affected but shall remain in full force and effect.

(d) Exhibits. All of the exhibits attached to this Agreement are hereby incorporated by this reference.

(e) Relationship of the Parties. Each party is and shall at all times be and remain independent from the other parties hereto and, except to the extent otherwise expressly set forth in the Definitive Agreements, shall not be deemed an agent of any other party. Nothing contained herein shall have the effect of creating a joint venture or partnership between or among any of the parties

hereto. No party shall have any right or power to obligate or bind any other party in any manner whatsoever. This Agreement is not intended and shall not be construed to create any beneficiary rights in any individual or entity not a party hereto. None of the parties hereto is a fiduciary of any other party.

(f) Amendments. This Agreement cannot be modified or amended in any way except in writing, signed by the parties hereto.

(g) Notices. Any notice required or authorized to be given hereunder or any other communications between the parties provided for under the terms of this Agreement shall be in writing, unless otherwise provided, and shall be served personally or by reputable express courier service or by facsimile transmission addressed to the relevant party at the address stated below or at any other address notified by that party to the other as its address for service. Any notice so given personally or by express courier service shall be deemed to have been served and received upon delivery, or attempted delivery, and any notice so given by facsimile transmission shall be deemed to have been served and received on dispatch. As proof of such service and receipt, it shall be sufficient to produce a receipt showing delivery, or attempted delivery, by personal service or by express courier service, or an activity report of the sender's facsimile machine showing the correct facsimile number of the party to whom notice is served and the correct number of pages transmitted. The parties' addresses for service are:

If to SANBAG:        Deborah Barmack  
                             Executive Director  
                             1170 West Third Street, Second Floor  
                             San Bernardino, CA 92410-1715  
                             Phone: 909-884-8276

If to UPRR:            Jerry Wilmoth  
                             Union Pacific Railroad Company  
                             General Manager, Network Infrastructure  
                             10031 Foothills Boulevard  
                             Roseville, CA 95747  
                             Phone: 916-789-6360

If to BNSF:            Walt Smith  
                             BNSF Railway Company  
                             General Director, Engineering and Construction  
                             740 Carnegie Drive  
                             San Bernardino, CA 92408  
                             Phone: 909-386-4910

(h) Counterparts. This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

(i) Entire Agreement. This Agreement constitutes a single, integrated, written contract expressing the entire agreement of the Parties on the subjects addressed herein. No covenants, agreements, representations, or warranties of any kind whatsoever have been made by any party hereto, except as specifically set forth herein. All prior discussions and negotiations have been and are merged and integrated into, and superseded by, this Agreement.

(j) Waivers. Any waiver, modification, consent, or acquiescence with respect to any provision of this Agreement shall be set forth in writing and duly executed by or on behalf of the party to be bound thereby. No waiver by any party of any breach hereunder will be deemed a waiver of any other or subsequent breach.

(k) No Presumption Against Drafting Party. This Agreement and the provisions contained therein shall not be construed or interpreted for or against any party because that party drafted or caused its legal representative to draft any of the Agreement's provisions.

(l) Authority. Each individual executing this Agreement hereby represents and warrants that he or she has the capacity set forth on the signature pages with full power and authority to bind the party on whose behalf he or she is executing the Agreement.

(m) Assignment. This Agreement shall be binding upon and inure to the benefit of each of the parties hereto and to their respective transferees, successors, and assigns. No party may assign its rights or obligations under this Agreement to a third party without the written consent of the other parties, except where assignment occurs as a result of a sale or transfer of all or substantially all of a party's assets pursuant to merger, sale, consolidation, combination, or order or decree of governmental authority.

(n) No Third Party Beneficiaries. Enforcement of the terms of this Agreement shall be reserved to the Parties, and nothing contained in this Agreement shall provide any claim or right of action for enforcement to any other party.

(o) Time of Essence. Time is of the essence with regard to all dates and time periods set forth or referred to in this Agreement.

(p) No Partnership. Notwithstanding any other provision of this Agreement, the Parties hereto shall not be deemed or constituted to be partners or joint ventures or agents of one another for any purpose, and no Party shall be liable for any obligation of the other Party.

**IN WITNESS WHEREOF**, this Agreement has been executed by the Parties hereto on the date first written above.

July 27, 2010

UNION PACIFIC RAILROAD COMPANY,  
a Delaware corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

BNSF RAILWAY COMPANY,  
a Delaware corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

SAN BERNARDINO ASSOCIATED GOVERNMENTS,  
a joint powers authority

By: \_\_\_\_\_

Name: BRAD MITZELFELT, President

Title: SANBAG Board of Directors

## Exhibit A

The Project is located in Colton, California where Union Pacific Railroad's Alhambra and Yuma Subdivisions (MP 538.7) intersect with BNSF's San Bernardino Subdivision.



## Exhibit B

The Project would elevate Union Pacific's east / west tracks over the BNSF's north / south tracks. The planned project scope includes:

- Construct a structure, approximately 7,250 feet long, between Rancho Avenue (MP 538.5) and Mount Vernon Avenue (MP 539.7)
- Two mainline tracks and a maintenance road will be constructed on the structure
- Opening under the grade separation structure for the BNSF tracks would accommodate a potential third BNSF mainline track with 20 ft track centers
- One of the existing UPRR mainline tracks would be converted to become the Colton Yard lead / Yuma connector track with an at-grade crossing diamond at the junction with the BNSF
- Modify existing northwest quadrant connection between UPRR and BNSF tracks to connect to UPRR's existing mainline 2 track
- Design provides for future connection between UPRR and BNSF tracks in the southwest quadrant

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority
- San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

## *Minute Action*

AGENDA ITEM: 11

**Date:** August 4, 2010

**Subject:** State Route 60 Sound Wall Plans, Specifications and Estimates

**Recommendation:\*** Approve Professional Services Contract No. C10180 with TRC Solutions, Inc. for Professional Engineering Design Services for development of Plans, Specifications and Estimates (PS&E) for a sound wall along State Route 60 (SR-60) in an amount not to exceed \$158,608.

**Background:** **This is a new contract.** In March 2010, SANBAG Board approved the release of a Request for Proposals (RFP) seeking a highly qualified consulting firm to provide professional engineering design services for development of PS&E for a sound wall along SR-60 between Ramona Avenue and Pipeline Avenue in the City of Chino. On April 8, 2010, staff received proposals from six (6) consulting firms: IDC Consulting Engineers, MTS Engineers, PBS&J, RBF Consulting, Southstar Engineering and Consulting, Inc., and TRC Solutions, Inc.

Staff assembled a selection panel consisting of members from the City of Chino, Caltrans, and SANBAG staff. Following review of the proposals, the panel members shortlisted PBS&J, RBF Consulting and TRC Solutions, Inc.; each firm was invited to participate in an interview on Thursday, May 6<sup>th</sup>. Following the interviews, the selection panel deliberated and selected TRC as the best qualified team to provide the services requested in the RFP. In Mid-May Staff met with the TRC team to begin negotiations on a professional services contract and has since agreed in principal with TRC on a contract amount not to exceed \$158,608, which includes an estimated fee of \$144,189, plus a 10% contingency of \$14,419.

\*

*Approved  
 Board of Directors*

*Date:* \_\_\_\_\_

*Moved:* \_\_\_\_\_ *Second:* \_\_\_\_\_

*In Favor:* \_\_\_\_\_ *Opposed:* \_\_\_\_\_ *Abstained:* \_\_\_\_\_

*Witnessed:* \_\_\_\_\_

<input type="checkbox"/>	COG	<input type="checkbox"/>	CTC	<input checked="" type="checkbox"/>	CTA	<input type="checkbox"/>	SAFE	<input type="checkbox"/>	CMA
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Check all that apply

BRD1008b-gc

Attachment: C10180

***Financial Impact:*** The award of this Contract is consistent with the 2010/2011 Fiscal Year Budget. Funding for the Contract is provided under Project No. 81711000. The funding source is Measure I (1990-2010) Valley Major Projects.

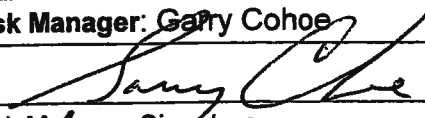
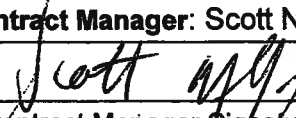

***Reviewed By:*** This item was reviewed and unanimously recommended for approval by the Major Projects Committee on July 15, 2010. SANBAG Counsel has reviewed and approved the subject professional services agreement as to form.

***Responsible Staff:*** Garry Cohoe, Director of Project Delivery

SANBAG Contract No. **C10180**  
by and between SANBAG and TRC  
for Professional Engineering Design Services for Sound Wall Along State Route 60

FOR ACCOUNTING PURPOSES ONLY						
<input checked="" type="checkbox"/> Payable <input type="checkbox"/> Receivable	Vendor Contract # _____ Vendor ID <u>TBD</u>	Retention: <input type="checkbox"/> Yes _____ % <input type="checkbox"/> No	<input checked="" type="checkbox"/> Original <input type="checkbox"/> Amendment			
Notes:						
Original Contract: \$ <u>144,189</u>		Previous Amendments \$ _____				
		Previous Amendments \$ _____				
Contingency / Allowance Amount \$ <u>14,419</u>		Contingency / Allowance Total:				
		Current Amendment: \$ _____				
		Current Amendment Contingency / Allowance: \$ _____				
Contingency Amount requires specific authorization by Task Manager prior to release.						
<b>Contract TOTAL ►</b>						<b>\$ <u>158,608</u></b>
* Funding sources remain as stated on this document unless and until amended by proper authority. Funding sources are those which are ultimately responsible for the expenditure.						
▼ Include funding allocation for the original contract or the amendment						
Main Task/Project	Level 1	Level 2	Cost Code/Object	Grant ID/Supplement	Funding Sources/ Fund Type (Measure I, STP, CMAQ, etc.)	Amounts for Contract Total or Current Amndmnt Amt
<u>0817</u>	<u>630</u>	<u>620</u>	<u>52005</u>	<u>99006</u>	<u>MSI-VALLEY-MAJOR</u>	<b>\$ <u>158,608</u></b>
_____	_____	_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	_____	_____	\$ _____
Original Board Approved Contract Date: <u>8/4/2010</u>				Contract Start: <u>8/4/2010</u>		Contract End: <u>7/31/2011</u>
New Amend. Approval (Board) Date: _____				Amend. Start: _____		Amend. End: _____
Allocate the Total Contract Amount or Current Amendment amount between Approved Budget Authority in the current year and Future Fiscal Year(s) Unbudgeted Obligation.						
Approved Budget Authority ►		Fiscal Year: <u>2010/2011</u> \$ <u>158,608</u>		Future Fiscal Year(s) – Unbudgeted Obligation ►		\$ <u>0</u>
<input checked="" type="checkbox"/> Budget authority for this contract currently exists in Task No. <u>0817</u> (C-Task may be used here.).						
<input type="checkbox"/> A budget amendment is required. A Budget Amendment Request is attached.						

CONTRACT MANAGEMENT	
Check all applicable boxes:	
<input type="checkbox"/> Intergovernmental	<input checked="" type="checkbox"/> Private
<input type="checkbox"/> Federal Funds	<input checked="" type="checkbox"/> State/Local Funds
<input type="checkbox"/> Disadvantaged Business Enterprise (DBE)	<input type="checkbox"/> Underutilized DBE (UDBE)

Task Manager: <u>Garry Cohoe</u>		Contract Manager: <u>Scott Neff</u>	
	<u>7/8/10</u>		<u>7/8/10</u>
Task Manager Signature	Date	Contract Manager Signature	Date
	<u>7/24/10</u>		
Chief Financial Officer Signature	Date		

**Contract C10180**

**ATTACHMENT "A"**

**Scope of Services**

**By and between**

**San Bernardino Associated Governments/  
San Bernardino County Transportation Authority**

**and**

**TRC SOLUTIONS, INC.**

**To**

**DEVELOP PLANS, SPECIFICATIONS AND ESTIMATES (PS&E)**

**for**

**A SOUND WALL ALONG STATE ROUTE 60**

**In the City of Chino in  
San Bernardino County, California**

## Scope of Services

### OVERVIEW

The San Bernardino Associated Governments (SANBAG), in cooperation with the California Department of Transportation (CALTRANS), will utilize the services of CONSULTANT to prepare the Plans, Specifications, and Estimates (PS&E) and to provide Right of Way services for a 16-foot high Right-of-Way sound wall, approximately 900 feet long, on westbound State Route (SR) 60, between Pipeline Avenue and Ramona Avenue in the City of Chino in San Bernardino County. Coordination of SANBAG, CALTRANS, and CONSULTANT will be accomplished through a SANBAG Contract Manager or his designee, a CONSULTANT Project Manager, and a CALTRANS Project Manager.

The SANBAG Contract Manager for this contract shall be:

Mr. Garry Cohoe  
Director of Freeway Construction

CONSULTANT shall be required to perform all professional and technical services necessary to prepare the final (PS&E) and Right-of-Way Certification. **Consultants shall consider using the Caltrans Permit process, if possible, for the delivery of this project. Proposals must include a summary of the pros and cons of using the Permit process in lieu of the standard Caltrans full oversight process.**

### **Project Location and Description**

A Noise Barrier Scope Summary Report (NBSSR) was prepared for this project and was approved by Caltrans on 10/24/2001. The project proposes to build a 16-foot high Right-of-Way sound wall on westbound State Route (SR) 60, between Pipeline Avenue and Ramona Avenue in the City of Chino in San Bernardino County. The existing SR-60 facility at this location is comprised of six 12-foot mixed flow PCC lanes, two 11-foot mixed flow PCC lanes, two 11-foot HOV lanes, two 9-foot inside shoulders, and two 10-foot outside asphalt shoulders. North of the westbound roadbed, a sound wall will be constructed on the right-of-way line from Station 51+50 to Station 61+00. Masonry block or concrete panel will be used to construct the sound wall. A Transportation Management Plan will be needed for the project as shoulder closures along with adjacent lane closures may be required. The project is categorically exempt under CEQA and a CE has already been issued by Caltrans. **Additional environmental work or re-evaluation, if required, is not part of this contract and will be carried out by SANBAG's on-call consultants.**

### **APPLICABLE STANDARDS**

All documents shall be prepared in accordance with current CALTRANS and Federal Highway Administration (FHWA) regulations, policies, procedures, manuals, and standards. This includes the State of California Department of Transportation Standard Specifications and Standard Special Provisions (SSPs) and the "CALTRANS Highway Design Manual".

### **SERVICES PERFORMED BY CONSULTANT**

CONSULTANT shall be responsible for the Services outlined in this Scope of Services. CONSULTANT services shall conform to the standards, criteria, and requirements of this Scope of Services, and shall include the studies, reports, drawings, plans, specifications, estimates, and special provisions necessary to complete the project.

#### **General Description of Required Services**

- A. CONSULTANT shall carry out the directions as received only from SANBAG'S Contract Manager or designee. In addition, CONSULTANT shall cooperate with CALTRANS, other agencies, and other CONSULTANTs providing services for this project and for adjacent projects, as necessary.
- B. It is not the intent of the foregoing paragraph to relieve CONSULTANT of professional responsibility during the performance of this Scope of Services. In those instances where CONSULTANT believes a better design or solution to a problem is possible, CONSULTANT shall promptly notify SANBAG's Contract Manager of these concerns, together with reasons there for.
- C. CONSULTANT shall have sole responsibility for the accuracy and completeness of the reports, plans, specifications, estimates, and related material prepared by CONSULTANT for the Project. CONSULTANT shall perform independent quality assurance (QA) checks and identify the preparer of all such material and the QA checker(s) on the cover sheet or transmittal letter prior to any submittal. The plans, concepts, reports, and documentation will be reviewed by CALTRANS, SANBAG, and/or SANBAG's designee for Quality Assurance and overall project consistency.
- D. The exhibits, studies, estimates, calculations, reports and other documents furnished under this Scope of Services shall be of a quality acceptable to SANBAG and CALTRANS. The criteria for acceptance shall be a product of neat appearance, well organized, technically and grammatically correct, checked and having the preparer and checker identified. The appearance, organization and content of all material to be submitted shall be to applicable standards.
- E. The title sheet for reports, each plan sheet, and calculations shall bear the professional seal certificate number, registration classification, expiration date of the certificate, signature of the professional engineer, registered in the State of California, responsible for their preparation.
- F. The CONSULTANT shall maintain a set of project files that are indexed in accordance with CALTRANS' Project Development Uniform File System.
- G. SANBAG reserves the right to approve all project scope of services changes. Any changes resulting from the addition, deletion, or revisions to the Scope of Services will not be made without prior written approval from SANBAG. The CONSULTANT shall not be compensated for making any changes to the project Scope of Services other than those approved in writing by SANBAG.

- H. CONSULTANT shall not suspend performance of work contained in this Scope of Services during the negotiations of any change orders except as may be directed by SANBAG. CONSULTANT shall perform all changes in accordance with the terms and conditions of the approved professional services contract.
- I. At the completion of work under this Scope of Services all electronic files and correspondence relating to the Project shall be turned over to SANBAG who will then forward said files to CALTRANS. This includes all working data, field data, and background information used in creating the deliverables listed in the Scope of Services.
- J. CONSULTANT shall submit all final plans on CD using MicroStation (.dgn) file format in accordance with CALTRANS standards. The electronic files shall include the engineer's electronic signature and seal. CONSULTANT shall verify the latest version of software used prior to submittal. CONSULTANT will also provide Interplot parameter (.i) files in accordance with CALTRANS standards.
- K. CONSULTANT shall obtain, at its expense, all applicable Manuals and Standard Plans and Specifications needed to perform all work included in this Scope of Services.
- L. In the event that non-standard features are necessary, CONSULTANT shall prepare the necessary Fact Sheets for Design Exceptions following CALTRANS guidelines.
- M. CONSULTANT shall employ quality control procedures that identify potential risks and uncertainties related to construction of the Project. Risks that may be encountered include, but are not limited to, soil conditions, constructability, factors of safety, impacts to adjacent properties, public safety, and environmental considerations. If at any time during the performance of this Scope of Services, CONSULTANT observes, encounters, or identifies any circumstance that could pose potential risk, CONSULTANT shall promptly notify SANBAG.
- N. CONSULTANT shall coordinate with all agencies involved or potentially impacted by the Project. CONSULTANT shall inform SANBAG prior to all contacts, meetings, and correspondence with other parties. CONSULTANT shall also be required to coordinate activities with adjacent projects.
- O. This scope of work does not include any services by CONSULTANT for work during construction.

### **SCOPE OF SERVICES**

**Following the selection of a consultant, the selected firm shall prepare and submit a detailed Scope of Services, a Cost Proposal, and Project Schedule.** Selected firm shall use the latest SANBAG Work Breakdown Structure (WBS), and cost and schedule templates for the preparation of the detailed scope of services, cost proposal, and schedule. Copies of the WBS, cost, and schedule templates are available on the SANBAG internet website: [www.sanbag.ca.gov](http://www.sanbag.ca.gov) under "Bids, RFPs and RFQ".

The following summary of the Scope of Services is not all-inclusive and is only intended to be used as an indication of the types of services typically provided by Consultant firms on similar projects. The selected firm shall prepare a detailed and comprehensive Scope of Services which shall include all work necessary for the completion of the Project, including full definition of the tasks, sub-tasks, and deliverables required for the Final Design and Right-of-Way certification services as described in this RFP. In preparing the comprehensive Scope of Services, Cost Proposal and Project Schedule, the Consultant shall utilize the latest SANBAG Level 6 Work Breakdown Structure (WBS) without making any edits to the standard tasks or standard WBS numbering system. Consultants wanting to add sub-tasks to further break down the standard tasks should use separate, non-linked Excel worksheets to break-down or analyze tasks and then copy the total hours to the SANBAG template at level 6

### **TASK 3.100 - PROJECT MANAGEMENT**

- Meet with SANBAG, Caltrans and other stakeholders in monthly Project Development Team (PDT) meetings.
- Attend other project coordination and focused meetings as necessary
- Prepare agendas and meeting minutes
- Prepare and update Project schedule monthly
- Prepare and submit monthly invoices & Project status report

### **TASK 3.185 – PREPARE BASE MAPS AND PLAN SHEETS**

- Perform field reviews
- Review available information
- Research and obtain copies of existing studies
- Research, obtain, and review all available maps and plans of major utilities and proposed utilities within the project area
- Obtain Record of Surveys, benchmark, and centerline tie information
- Obtain drainage information
- Perform field design surveys
- Prepare construction staging concept plans
- Prepare drainage concept plans
- Prepare storm water data report
- Prepare right-of-way data sheets
- Assess utility impacts and relocation requirements
- Prepare geotechnical report
- Prepare structures preliminary design
- Prepare cost estimates

### **TASK 3.205 – PERMITS**

- Determine need for and obtain Caltrans required permits
- Determine need for and obtain City and other required permits.

**TASK 3.230 – PREPARE DRAFT PLANS, SPECIFICATIONS & ESTIMATE (PS&E)**

- Prepare Draft Roadway Plans
- Prepare Draft Highway Planting Plans
- Prepare Draft Traffic Plans
- Prepare Transportation Management Plan
- Prepare Draft Utility Plans
- Prepare Draft Drainage Plans
- Prepare Draft Specifications
- Prepare Draft PS&E Quantities and Estimates
- Structures Draft PS&E Incorporation

**TASK 3.240 – PREPARE DRAFT STRUCTURES PS&E**

- Overall Draft Structures PS&E
- Foundation Plan
- Preliminary Foundation Reports
- Foundation Reports
- Draft Structure Plans
- Draft Structures Special Provisions and Cost Estimate

**TASK 3.250 – PREPARE FINAL STRUCTURES PS&E PACKAGE**

- Final Structures Plan
- Final Structure Special Provisions and Cost Estimate

**TASK 3.255 – PREPARE FINAL COMBINED PS&E PACKAGE**

- Updated PS&E Package
- Final District PS&E Package
- Geotechnical Information Handout
- Materials Information Handout
- Construction Staking Package and Control
- Resident Engineer's Pending File

**TASK 3.260 – PREPARE CONTRACT BID DOCUMENTS**

- Project Submittal Ready to Process (PS&E)
- Draft Contract Ready
- READY TO LIST (RTL)

**TASK 4.200 – UTILITY COORDINATION**

- Approved Utility Relocation Plan
- Utility Relocation Package
- Utility Relocation Management

#### **TASK 4.220 – RIGHT OF WAY ENGINEERING**

- Existing Land Net
- Land Net Maps
- Right of Way Maps
- Acquisition Documents

#### **TASK 4.225 – RIGHT OF WAY CERTIFICATION**

- Parcel and Project Documentation
- Right of Way Deeds

**SR-60 SOUND WALL PS&E**  
**PROFESSIONAL ENGINEERING DESIGN SERVICES**  
**SCOPE OF WORK**

**Prepared for:**



**San Bernardino Associated Governments**  
**1170 W. Third Street, Second Floor**  
**San Bernardino, California 92410**

**Prepared by:**



**June 7, 2010**

## PROJECT DESCRIPTION

The following scope of work is our professional design services to provide plans, specifications and estimates (PS&E) for a sound wall along SR-60 in the City of Chino. The project involves the design of a 950-ft long, 16-ft high Caltrans standard sound wall on the south embankment of the existing San Bernardino Flood Control channel, which is located on the north side of the SR-60 mainline.

The San Bernardino Associated Governments (SANBAG) Work Breakdown Structure (WBS) and Caltrans WBS are the basis for project tasks. Should any of the following assumptions be modified during the course of the project, a re-scoping of the project may be required.

## TECHNICAL ASSUMPTIONS

The following assumptions have been made with regard to the proposed project. More detailed discussion has been included under the appropriate technical studies. It is the Consultant's intent that all of these assumptions be confirmed early in the project development process.

1. The project PS&E and engineering reports will be prepared in accordance to Caltrans standards, guidelines and procedures. The City of Chino and County of San Bernardino standards, guidelines and procedures will not be used.
2. All field work will be performed along the top of slope and San Bernardino Flood Control channel maintenance road. No work will be performed along the freeway. If Caltrans require field work to be performed along the freeway, a separate scope and cost will be required to address this work.
3. No land acquisitions or temporary construction easements are required for the project.
4. We will implement a cost saving measure by using the aerial mapping from the SR-60 HOV Lanes project, EA 08-347214. Although the SR-60 HOV Lanes project was prepared in 1994, we have determined from our site investigation that site condition matches the base map. We will use the existing aerial mapping instead of purchasing new aerial mapping. We will supplement and validate the existing mapping with field survey of ground elevations along the wall alignment. We will request the Microstation file of the aerial mapping from Caltrans. If Caltrans cannot provide the CADD file a separate scope and cost will be required to perform aerial mapping work.
5. The sound wall improvements will be limited to the top of slope. No traffic control design is anticipated along the freeway and local streets. If Caltrans require the design to be extended to the freeway and local streets, a separate scope and cost will be required to address this work.
6. If it is necessary to pothole existing utilities at critical locations, the Consultant will coordinate with SANBAG and Caltrans to arrange with the respective utility owner to pothole its facility (at utility owner or SANBAG cost). The Consultant will coordinate the field survey crews to locate potholed utilities by coordinates and elevations at additional cost.
7. No utility relocation work is anticipated. If relocation does occur, a separate scope and cost will be required to address this work.
8. Geotechnical field investigation is allowed between 7:00 am and 7:00 pm on weekdays.

9. The NBSSR identified no hazardous materials at the project site; therefore no investigation of hazardous materials will be performed. If hazardous materials are encountered during the geotechnical field investigation, Consultant will terminate field work and notify SANBAG and Caltrans. A separate scope and cost will be required to address the hazardous material collection and removal.
10. Consultant will obtain a flood control permit from the San Bernardino County Flood Control District to conduct geotechnical field work along the maintenance access road. Preparation of any environmental documents necessary to secure the Flood Control Permit is not included and the NBSSR will be reference in the permit application.
11. The existing irrigation system will not be redesigned to meet water efficiency standards.

### **3.100.15 PROJECT MANAGEMENT – PS&E COMPONENT**

#### **3.100.15.01 Agency and Coordination Meetings**

This activity will address the planning of and attendance at the Project Development Team (PDT) meetings, technical meetings and agency coordination meetings.

The Consultant will hold a kick-off meeting with SANBAG to confirm the project scope, establish the lines of communications, and set a schedule for project coordination meetings and technical reviews. The kick-off meeting will address the start-up activities to initiate the PS&E. Two (2) PDT meetings will be held to review progress of the project development and to resolve any issues and concerns for the Project. In addition to the PDT meetings, three (3) technical and agency meetings will be held.

The Consultant will prepare a meeting agenda and minutes for each meeting.

#### **Deliverables:**

- Preparation of meeting agenda
- Preparation of meeting minutes
- Attendance at 6 meetings

#### **3.100.15.02 Project Setup, Administration and Schedule**

This process includes coordinating people and other resources to carry out the plan, and ensuring that the PS&E objectives are being met by monitoring progress and taking corrective action, when necessary.

The Consultant will maintain ongoing liaison with the SANBAG Project Manager and other affected agencies to promote effective coordination during the course of project development. Seven (7) months of project management is assumed.

The Consultant will ensure that all work products conform to all applicable standards and policies. The Consultant will prepare and monitor the project budget and schedule. Monthly progress reports with an updated schedule will be prepared.

#### **Deliverables:**

- Project records, using Caltrans Uniform File System
- Project management for 7 months for the Project
- Master schedule

### **3.185 PREPARE BASE MAPS AND PLAN SHEETS**

#### **3.185.05 Updated Project Information**

This initial activity of project design phase is necessary to become familiar with the project site. The Consultant will coordinate with SANBAG, Caltrans, and local agencies to gather any additional existing project documents and as-builts related to the proposed project. Encroachment permit applications will be prepared and/or updated as necessary and submitted to Caltrans for processing

and approval. See Task 3.205. After obtaining the encroachment permit, field reconnaissance of the project will occur as required by the various team members. Existing controls including the right of way will be reviewed.

### **3.185.10 Engineering and Photogrammetric Surveys**

Consultant will complete research of record survey information from Caltrans, the City of Chino, and San Bernardino County surveyor's office and obtain copies of the horizontal control, vertical control, record maps and centerline ties in the vicinity of the project.

Cross sections will be obtained using a terrain line interpolation method by obtaining shots along individual feature lines at approximately 50 foot intervals, and the surveyors will locate surface-visible utilities. Ground design surveys will be obtained for the following: top of existing slope, edge of concrete drainage ditch, above ground utilities, structures, and other major man-made features along the sound wall alignment. The survey information will be added to the existing aerial mapping that will be obtained from Caltrans.

#### **Deliverables:**

- Full survey report that will include ASCII file of all survey control monuments.
- Copies of all field survey notes, signed by the survey party chief and adjustment calculations signed by the project surveyor.
- All survey files will be completed using MicroStation V8
- Digital file of record right of way limits based on recovered monuments and mapping.

### **3.185.15 Preliminary Design**

The preliminary design will be prepared in accordance with the latest Caltrans procedures, guidance and standards. The Consultant will develop preliminary sound wall and irrigation plans to present the project improvements. Design activities with regard to the following preliminary design work include:

- Horizontal and Vertical Wall Alignment
- Typical Cross Sections
- Irrigation and Planting Concept

#### **Deliverable:**

- Preliminary Design Plans

### **3.185.20 Engineering Reports**

Various engineering reports will be prepared to support the project design and meet the Caltrans PS&E process including the Geotechnical Design Report, Noise Abatement Decision Report and Storm Water Data Report.

### 3.185.20.15 Geotechnical Design Report (GDR)

Consultant effort includes conducting a geotechnical field investigation and laboratory soil testing for the purposes of characterizing subsurface soils and conditions, evaluating foundation types for the proposed sound wall, and preparing a geotechnical report for the project. Details of the work are provided below.

Geotechnical Field Investigation – Consultant will excavate a total of five (5) exploratory boreholes for the proposed sound wall. The boreholes will be excavated to depths ranging between 30 and 50 feet below the existing grade of the channel access road. Boreholes will be excavated using a conventional truck-mounted drill rig equipped with 8-inch diameter hollow-stem augers. Spoils generated from the borehole excavations will be mixed with cement and water and used to backfill the boreholes. Spoils generated from the borings will not be stored in drums, tested for contaminants, or disposed of off-site by Consultant.

Consultant will collect bulk samples of near-surface subgrade soils and small disturbed and relatively undisturbed samples of deeper soils for classifying and determining strength of soils. The small disturbed and relatively undisturbed soil samples will be collected using split-spoon samplers at a vertical interval of 5 feet, alternating between the Standard Penetration Test (SPT) sampler and the Modified California Drive (MCD) sampler. Soil samples will be logged during the field investigation, secured in their containers or collected in plastic bags, and transported to the soil laboratory. Traffic lane closures are not required to accomplish the field investigation since the work will be performed along the San Bernardino Flood Control District maintenance road.

Laboratory Testing – Field logs of the boreholes will be reviewed to select representative soil samples for laboratory testing. Various laboratory tests will be performed on soil samples to determine or derive their physical and engineering characteristics. Anticipated laboratory tests include: grain size distribution, Atterberg limits, direct shear, maximum density and optimum moisture content, and soil corrosivity tests. Tests will be conducted in general accordance with California Test methods or ASTM standards.

Geotechnical Engineering Analyses – Results obtained from the field investigation and laboratory testing will be used to characterize subsurface soils and conditions and create an idealized soil profile. Consultant will evaluate the suitability of subsurface soils and conditions relative to sound wall foundation types. Consultant will evaluate the need for temporary casing if Cast-in-Drilled-Hole foundations are used to support the proposed sound wall. Lastly, Consultant will evaluate liquefaction potential and will address the corrosivity of on-site soils.

Report Preparation – Consultant will prepare a Geotechnical Design Report (GDR) summarizing the results of the field investigation, laboratory soil testing, and foundation assessment. The report will address subsurface soil types and conditions, soil liquefaction potential, and will provide recommendations for sound wall foundation type, shoring, and earthwork. Logs of boreholes will be presented on 11"x17" Log-of-Test-Boring (LOTB) sheets. Five copies of the Draft GDR will be submitted to Caltrans for review and approval. Consultant will address review comments and incorporate responses to comments into a final report. Five copies of the final report will be submitted to Caltrans for approval.

#### **Deliverables:**

- Draft GDR (5 copies)

- Final GDR (5 copies)

### **3.185.20.40 Utility Locations Determined for Design**

The Consultant will coordinate with utility owners to obtain record copies of utility maps from each utility owner within the project limits. The Consultant will provide the utility owners mapping and/or exhibits that clearly define the project limits as part of the requests for utility information.

The Consultant will identify utility companies affected by the project and delineate utilities within the project's sphere of influence on the plans. The Consultant will prepare preliminary plans, which will include all existing utilities (above ground and below ground) identified by location, size, type, and owner, as appropriate. The Consultant will check horizontal and vertical clearances for utilities based on utility record maps and field verification, and coordinate design with the various utility companies to address conflicts. Known utility conflicts will be shown on the plans with construction notes.

The Consultant will monitor responses of utility notices received and make recommendations for mitigating conflicts. The Consultant will provide written responses to utility companies with regard to stated concerns and conduct design coordination meetings with utility companies as needed. Recommendations regarding any unresolved issues will be provided to SANBAG as early as practical. It is anticipated that potholing will not be required.

#### **Deliverables:**

- Utility agency correspondences and meeting minutes
- Request for potholing (not anticipated)
- Inventory of utility record maps
- Utility base map

### **3.185.20.50 Storm Water Data Report**

It is anticipated that a Short Form will be applicable for this project for the following reasons:

1. The total soil disturbance will be less than 0.25 acres and limited to a 5 foot width for a pile cap trench, vine root balls and irrigation line.
2. The sound wall is not considered a major construction.

The Short Form – Storm Water Data Report will be prepared in accordance with Caltrans Storm Water Quality Handbooks, Project Planning and Design Guide. It is recommended that a coordination meeting with Caltrans be performed as early as possible to validate the assumptions for the Short Form.

#### **Deliverable:**

- Draft Short Form – Storm Water Data Report (5 copies)
- Final Short Form – Storm Water Data Report (5 copies)

### **3.185.25 Right Of Way Requirements Determination**

Consultant will field locate available Right of Way monuments in the project area to establish record right of way from information obtained from the City of Chino, Caltrans, and San Bernardino County surveyors data base. No right of way fee and temporary construction easement are anticipated therefore right of way effort will be limited to establishing the existing right of way only.

Consultant will prepare a Land Net base map in Microstation "DGN" format of the existing parcels from available record mapping information along Route 60 within the project limits.

#### **Deliverables:**

- Full survey report that will include ASCII file of all right of way control monuments.
- All survey files will be completed using MicroStation V8
- Digital file of record right of way limits based on recovered monuments and mapping.

## **3.205 PERMITS, AGREEMENTS & ROUTE ADOPTIONS DURING PS&E**

### **3.205.05 Determine Required Permit**

This activity includes all work required in order to determine what permits may be required and the information needed for the permit application package.

### **3.205.10 Obtain Permit**

It is anticipated that a Caltrans encroachment permit and San Bernardino County encroachment permit will be required to perform field work at the project site. All work involved in obtaining permits, including:

- Discussions and negotiations with the permitting agency.
- Preparation of the permit and attachments such as exhibits, maps, etc.
- Obtain funds for any required permit fee.
- Submit permit application.

#### **Deliverables:**

- Caltrans encroachment permit application package
- San Bernardino County encroachment permit application package

## **3.230 DRAFT PS&E**

Work involved in the preparation and review of draft plans, specifications and estimates.

### **3.230.05 Draft Roadway Plans**

Includes all activities, from the base maps, such as design, field reviews, and internal/external coordination (see sub-tasks) necessary to develop draft sound wall plan sheets for construction

contract. The design will be prepared in accordance to the Caltrans Drafting and Plans Manual of Instruction, Highway Design Manual and Standard Plans.

**Deliverables:**

- Title Sheet (1 sheet)
- Temporary Water Pollution Control (1 sheet)
- Sound Wall Plan and Profile (1"=20')(3 sheets)
- Sound Wall Details and Quantities (1 sheet)
- Sound Wall Aesthetic Details (1 sheet)
- Sound Wall Standard Plans (3 sheets)

**3.230.10 Draft Highway Planting Plans**

All activities, such as design, field reviews, and internal/external coordination) (see sub-tasks) necessary to develop highway-planting plan sheets for construction contract. The design will be prepared in accordance to the Caltrans Drafting and Plans Manual of Instruction, Highway Design Manual and Standard Plans.

**Deliverables:**

- Planting (1"=50')(2 sheets)
- Irrigation (1"=50')(2 sheets)
- Sprinkler Schedule (1 sheet)

**3.230.25 Draft Utility Plans**

All activities, such as design, delineation, and internal/external coordination necessary to develop draft utility plan sheets for construction contract. The design will be prepared in accordance to the Caltrans Drafting and Plans Manual of Instruction and Standard Plans.

**Deliverable:**

- Utility (1"=50')(1 sheet)

**3.230.35 Draft Specifications**

Activities necessary to develop the project draft Special Provisions. The Caltrans standard Special Provisions will be obtained from the Caltrans website and prepared in accordance to the Caltrans Ready to List and Construction Award Guide (RTL Guide).

**Deliverable:**

- Edited Standard Special Provisions

### **3.230.40 Draft PS&E Quantities and Estimates**

Includes all activities necessary to develop project quantities and estimates. The unit prices will be based on the latest available Caltrans bid data and actual recent construction costs in the area. The construction cost estimates will be prepared in accordance to the Caltrans RTL Guide.

**Deliverable:**

- Construction Cost Estimates

### **3.255 FINAL DISTRICT PS&E PACKAGE**

#### **3.255.10 Updated PS&E Package**

This activity includes all necessary updates as a result of the draft PS&E circulation. Comments received from Caltrans will be addressed and incorporated into the final PS&E.

**Deliverable:**

- Final PS&E

#### **3.255.40 Resident Engineer's Pending File**

Work involved in preparing the RE Pending File includes preparing and forwarding information such as as-builts, survey field notes, key design correspondences, project contact list, engineering reports, quantity backup calculations and project issues, if any.

**Deliverable:**

- RE Pending File

### **3.260 CONTRACT BID DOCUMENTS "READY TO LIST" - RTL**

The milestone "Ready to List" as defined in the RTL Guide.

#### **3.260.50 Project Submittal Ready to Process (PS&E)**

The product from this activity is a complete project submittal for processing. Activities include validating submittal requirements are complete, coordinating with SANBAG staff for processing since SANBAG will be the lead agency to Advertise, Award and Administer (AAA) the construction. It is anticipated that project will not be coordinated or processed through the Caltrans District Office Engineer and Delineation unit.

**Deliverable:**

- Complete project submittal ready to process.

#### **3.260.80 Draft Contract Ready**

Consultant will assist SANBAG by reviewing the draft contract ready for advertisement once RTL requirements are completed and funding is available. Activities include finalizing the plans, technical

specifications and estimate, providing contract quality feedback and final PS&E changes for SANBAG.

### **3.260.90 Ready to List (RTL)**

The product from this activity is a draft contract, ready to list for advertisement and ready to begin final preparation of bid books (if funds are available to cover construction and construction windows allow). The activity includes validating that all RTL requirements have been met.

#### **Deliverable:**

- Final RTL Certification

## **3.265 AWARDED AND APPROVED CONSTRUCTION CONTRACT**

### **3.265.55 Advertised Contract**

This activity begins with the advertisement of the contract documents, which consists of responding to bidder's inquiries. No addendum is anticipated.

#### **Deliverable:**

- Response to bidder's inquiries (3 inquiries)

## **5.270 CONSTRUCTION ENGINEERING AND GENERAL CONTRACT ADMINISTRATION**

### **5.270.20 Construction Engineering Work**

All work involved in the conduct of construction engineering work for the construction contract. Technical support for the construction engineering staff provided by Consultant including responses to request for information (RFI), shop drawing review and site meetings.

#### **Deliverable:**

- Response to request for information (7 RFI's)
- Shop drawing review (1)
- Site meetings (3 meetings)

### **5.270.25 Construction Contract Administration Work**

All work involved in the conduct of contract administration work for the construction contract.

#### **5.270.25.15 Pre-construction Meeting**

Consultant will attend pre-construction meeting with SANBAG and contractor to meet the construction management team and contractor, and answer design related questions.

## **6.295 FINAL CONSTRUCTION ESTIMATE AND FINAL REPORT**

Work involved in the acceptance and final documentation of a construction contract.

### **6.295.15 As-Built Plans**

Includes preparation work involves transferring all as-built changes, or required as-built information onto the set of plans dedicated as the red-line mark-up set of As-Built Plans. This activity also involves putting together the marked up set of As-Built Plans and forwarding all of the District roadway As-Built to the District Office for review. Also included in this activity is work by the design section structural technicians to transfer the red-line As-Built plan mark-ups to the original full size reproducible plan sheets (or CADD file) and forwarding a reproducible set of plans with the transferred As-Built changes to the office 'As-Built' Section for filing, scanning, and microfilming.

***ATTACHMENT "B"***

**Billing Rate Schedule**

**By and Between**

**San Bernardino Associated Governments/San Bernardino County  
Transportation Authority**

**And**

**TRC SOLUTIONS, INC.**

**To**

**DEVELOP PLANS, SPECIFICATIONS AND ESTIMATES (PS&E)**

**for**

**A SOUND WALL ALONG STATE ROUTE 60**

**In the City of Chino in  
San Bernardino County, California**

**Contract C10180**

# ATTACHMENT 'B'

TRC

## San Bernardino Associated Governments (SANBAG)

### STATE ROUTE 60 SOUND WALL PS&E PROFESSIONAL ENGINEERING DESIGN SERVICES

June 7, 2010

#### I. DIRECT LABOR COSTS

Staff Classification	Initial Direct Hourly Rate	Hours	Total
Project Principal/QA Manager	\$96.15	6	\$576.90
Project Manager	\$74.44	101	\$7,518.44
Highway Design Lead	\$38.50	91	\$3,503.50
Principal Engineer/Designer	\$44.50	87	\$3,871.50
Senior Engineer/Designer (QC)	\$69.23	19	\$1,315.37
Engineer/Designer	\$32.00	172	\$5,504.00
Roadway CAD Specialist	\$30.00	177	\$5,310.00
Clerical/Admin Assistant	\$28.25	76	\$1,767.00

Subtotal Hours & Direct Labor Costs

729

\$29,366.71

Anticipated Salary Increases

\$0.00

Total Direct Labor Costs

\$29,366.71

(1)

#### II. INDIRECT COSTS

INDIRECT RATE 150.00 % x \$ 29,366.71 = Subtotal \$44,050.07 (2)  
Subtotal (1)

#### III. FEE (PROFIT)

9 % x \$ 73,416.78 = Subtotal \$6,607.51 (3)  
Total (1) + (2)

#### IV. OTHER DIRECT COSTS

Item	Amount
Car Mileage	\$300.00
Travel (parking fee, toll road)	\$56.00
Photocopies (Black & White)	\$35.00
Photocopies (Color))	\$15.00
Commercial Printing	\$300.00
Mail/Courier	\$75.00
As-Builts	\$72.00

Subtotal \$ \$883.00 (4)

#### V. SUBCONSULTANTS COST

Earth Mechanics, Inc. \$26,961.00  
LDP Design Group \$18,824.00  
Psomas \$17,497.00

Subtotal \$ \$63,282.00 (5)

#### VI. TOTAL AMOUNT

\$144,189 (Total 1-5)

TRC

**LABOR & OTHER DIRECT COST (ODC) SUMMARY**  
**STATE ROUTE 88 SOUND WALL P&E**  
**PROFESSIONAL ENGINEERING DESIGN SERVICES**

June 7, 2010

STAFF CLASSIFICATION	STAFF NAME	RANGE OF DIRECT HOURLY RATES		TOTAL HOURS	INITIAL DIRECT HOURLY RATE	SUB-TOTAL DIRECT LABOR COST	ANTICIPATED SALARY INCREASES	TOTAL DIRECT LABOR COST	TOTAL INDIRECT COST	FEE (PROFIT)	TOTAL LABOR COST	FULLY LOADED HOURLY RATE
		LOW	HIGH									
Project Principal/CA Manager	Waymon Williams	\$80.00	\$100.00	9	\$84.13	\$576.90	\$0.00	\$576.90	\$865.35	\$129.80	\$1,572.05	\$262.01
Project Manager	Ruben Lino	\$70.00	\$90.00	101	\$78.44	\$7,518.44	\$0.00	\$7,518.44	\$11,277.66	\$1,691.65	\$20,487.75	\$202.85
Highway Designer/Estimator	Jason Yeh	\$36.00	\$46.00	87	\$38.50	\$3,503.50	\$0.00	\$3,503.50	\$5,255.25	\$789.29	\$9,548.04	\$104.91
Principal Engineer/Estimator	Arthur Falar	\$36.00	\$50.00	27	\$44.30	\$3,871.50	\$0.00	\$3,871.50	\$5,807.25	\$871.09	\$10,549.84	\$121.26
Senior Engineer/Estimator (ODC)	Charles Townsend	\$45.00	\$75.00	19	\$60.25	\$1,315.37	\$0.00	\$1,315.37	\$1,973.06	\$295.96	\$3,584.39	\$188.65
Engineer/Designer	Neil Frank			172	\$32.00	\$5,504.00	\$0.00	\$5,504.00	\$8,256.00	\$1,238.40	\$14,998.40	\$87.20
Engineering Specialist	Priscilla Brown			177	\$30.00	\$5,310.00	\$0.00	\$5,310.00	\$7,965.00	\$1,194.75	\$14,469.75	\$81.75
Roadway CAD Specialist						\$1,767.00	\$0.00	\$1,767.00	\$2,650.50	\$397.58	\$4,815.08	\$63.36
Checker/Detail Assistant	Ross Moreno	\$18.00	\$28.00	78	\$23.25							
<b>TOTAL =</b>				<b>729</b>		<b>\$29,368.71</b>	<b>\$0.00</b>	<b>\$29,368.71</b>	<b>\$44,050.07</b>	<b>\$6,607.51</b>	<b>\$80,026.29</b>	

INDIRECT COST	
Overhead	100.00%
General & Admin	50.00%
<b>Total</b>	<b>150.00%</b>

FEE (PROFIT) 23.00%

OTHER DIRECT COSTS (ODC's)	Price Per Unit	Unit	Quantity	Total	WBS
Car Manager	\$330.00	hour	1	\$330.00	
Travel (Monthly Fee, full time)	\$8.00	hour	1	\$8.00	
Computer Outlets	\$35.00	hour	1	\$35.00	
Phone Lines (Monthly Service)	\$15.00	hour	1	\$15.00	
Photocopying Service	\$10.00	hour	1	\$10.00	
Computer Printing	\$75.00	hour	1	\$75.00	
Mail Copies	\$72.00	hour	1	\$72.00	
Cell Phone					
<b>TOTAL OTHER DIRECT COSTS</b>				<b>\$683.00</b>	

Escalation Per Year =		
2010	1.00%	0.00%
2011	1.00%	0.00%
2012	1.00%	0.00%
2013	1.00%	0.00%
2014	1.00%	0.00%
2015	1.00%	0.00%
<b>TOTAL</b>	<b>6</b>	<b>0.00%</b>

<b>TOTAL COSTS</b>	<b>\$80,907.28</b>
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C10180

Attachment B

TRC

**STATE ROUTE 60 SOUND WALL PS&E  
PROFESSIONAL ENGINEERING DESIGN SERVICES  
6/7/2010**

Fully Loaded Hourly Rate (Direct Labor, Escalation, overhead, and profit)			\$253.91	\$262.34	\$284.91	\$121.34	\$198.88	\$77.28	\$81.74	\$93.39	TOTAL HOURS	TOTAL FULLY LOADED LABOR COST PER TASK
PHASE	WBS	Staff Name	Ayden Salas	Rene Law	James Fink	Arnell Young	Shawn Townsend	Rafael Ryan	Frederick Brown	Rock Morano		
		Staff Classification	Project Engineer	Project Manager	Highway Design Lead	Highway Design Engineer	Highway Design Engineer	Highway Design Engineer	Highway Design Engineer	Highway Design Engineer		
			6	101	91	87	19	172	177	76	729	\$80,024.28
		<b>TOTAL FOR PROJECT</b>										\$71,838.33
3		<b>PLANS SPECIFICATIONS &amp; ESTIMATE (PS&amp;E)</b>	6	93	85	64	19	168	149	68	652	\$23,453.83
		<b>3.100.15 PROJECT MANAGEMENT - PS&amp;E COMPONENT</b>	1	78	18	18	0	0	0	56	168	\$9,700.51
		3.100.15.01 Agency and Coordination Meetings								14	70	\$13,753.32
		3.100.15.02 Project Setup, Administration and Schedule								42	98	\$12,462.71
		<b>3.185 PREPARE BASE MAPS &amp; PLAN SHEETS</b>	2	1	25	13	1	50	35	2	129	\$3,073.80
		3.185.05 Update Project Information									2	\$209.83
		3.185.10 Engineering and Photogrammetric Survey									40	\$3,622.68
		3.185.15 Preliminary Design									1	\$262.01
		3.185.20 Engineering Reports									1	\$121.26
		3.185.20.15 Geotechnical Design Report									40	\$3,413.06
		3.185.20.40 Utility Locations Determined for Design									12	\$1,455.15
		3.185.20.50 Storm Water Data Report (Short Form)									1	\$104.91
		3.185.25 Right of Way Requirements Determination						14	0	0	14	\$1,220.80
		<b>3.205 PERMITS, AGREEMENTS &amp; ROUTE ADOPTIONS DURING PS&amp;E</b>	0	0	0	0	0	14	0	0	6	\$523.20
		3.205.05 Determine Required Permits									8	\$697.60
		3.205.10 Obtain Permits						11	80	82	6	\$21,197.78
		<b>3.230 DRAFT PS&amp;E</b>	1	3	18	18	11	80	82	6	150	\$13,788.29
		3.230.05 Draft Roadway Plans									2	\$293.66
		3.230.10 Draft Highway Planning Plans									12	\$1,180.88
		3.230.25 Draft Utility Plans									28	\$3,284.28
		3.230.35 Draft Specifications									28	\$2,733.07
		3.230.40 Draft PS&E Quantities and Estimates						24	26	1	70	\$7,028.32
		<b>3.255 FINAL DISTRICT PS&amp;E PACKAGE</b>	1	2	6	4	4	24	26	1	64	\$6,491.50
		3.255.10 Updated PS&E Package									6	\$536.83
		3.255.40 Resident Engineer's Pending File									42	\$5,138.78
		<b>3.280 CONTRACT BID DOCUMENTS "READY TO LIST" - RTL</b>	1	6	18	6	3	0	0	3	14	\$1,782.37
		3.280.50 Project Submittal Ready to Process (PS&E)									14	\$1,693.21
		3.280.80 Draft Contract Ready									14	\$1,693.21
		3.280.90 Ready to List									9	\$1,336.12
		<b>3.285 AWARDED &amp; APPROVED CONSTRUCTION CONTRACT</b>	0	3	6	6	6	0	0	0	9	\$1,336.12
		3.285.50 Advertised Contract									45	\$5,548.15
5		<b>CONSTRUCTION</b>	0	8	6	23	0	0	0	0	16	\$2,129.64
		<b>5.100.20 PROJECT MANAGEMENT - CONSTRUCTION COMPONENT</b>									29	\$3,418.51
		<b>5.270 CONSTRUCTION ENGINEERING &amp; GENERAL CONTRACT ADMINISTRATION</b>	0	0	6	23	0	0	0	0	25	\$2,933.46
		5.270.20 Construction Engineering Work									0	\$0.00
		5.270.25 Construction Contract Administration Work									4	\$485.05
		5.270.25.15 Pre-construction Meeting						4	28	0	32	\$2,637.80
6		<b>CLOSEOUT</b>	0	0	0	0	0	4	28	0	32	\$2,637.80
		<b>6.295 FINAL CONSTRUCTION ESTIMATES &amp; FINAL REPORT</b>	0	0	0	0	0	4	28	0	32	\$2,637.80
		6.295.15 As-Built Plans										
<b>TOTAL FULLY LOADED LABOR COST PER CLASSIFICATION</b>			\$1,572.05	\$20,487.75	\$9,547.84	\$10,549.84	\$3,584.38	\$14,998.40	\$14,469.75	\$4,815.08		

## ATTACHMENT 'B'

EARTH MECHANICS, INC.

### San Bernardino Associated Governments (SANBAG)

STATE ROUTE 60 SOUND WALL PS&E  
PROFESSIONAL ENGINEERING DESIGN SERVICES

May 24, 2010

#### I. DIRECT LABOR COSTS

Staff Classification	Initial Direct Hourly Rate	Hours	Total
Principal Earth Mechanics	\$73.00	2	\$146.00
Principal Geotechnical Engineer	\$57.00	40	\$2,280.00
Senior Geotechnical Engineer	\$48.15	22	\$1,059.30
Senior Geologist	\$46.25	10	\$462.50
Senior Field Technician	\$43.80	24	\$1,051.20
Senior Laboratory Technician	\$29.50	30	\$885.00
Project Geotechnical Engineer	\$33.50	4	\$134.00

Subtotal Hours & Direct Labor Costs	132	\$6,018.00
Anticipated Salary Increases		\$0.00
<b>Total Direct Labor Costs</b>		<b>\$6,018.00 (1)</b>

#### II. INDIRECT COSTS

INDIRECT RATE	165.00 % x	\$ 6,018.00	=	Subtotal	\$9,929.70 (2)
		Subtotal (1)			

#### III. FEE (PROFIT)

9 % x	\$ 15,947.70	=	Subtotal	\$1,435.29 (3)
	Total (1) + (2)			

#### IV. OTHER DIRECT COSTS

Item	Amount
Mall/Courier	\$50.00
Drilling Rig Rental	\$5,800.00
Laboratory Soil Tests	\$250.00
Caltrans Permit Inspector	\$328.00
SBC Flood Control District Permit	\$100.00

Subtotal \$ **\$9,578.00 (4)**

#### V. TOTAL AMOUNT

**\$26,961 (Total 1-4)**

EARTH MECHANICS, INC.

LABOR & OTHER DIRECT COST (ODC) SUMMARY

STATE ROUTE 64 SOUND WALL PS&E  
PROFESSIONAL ENGINEERING DESIGN SERVICES

May 24, 2016

STAFF CLASSIFICATION	STAFF NAME	RANGE OF DIRECT HOURLY RATES		TOTAL HOURS	INITIAL DIRECT HOURLY RATE	SUB-TOTAL DIRECT LABOR COST	ANTICIPATED SALARY INCREASES	TOTAL DIRECT LABOR COST	TOTAL INDIRECT COST	FEE (PROFIT)	TOTAL LABOR COST	FULLY LOADED HOURLY RATE
		LOW	HIGH									
Principal Earth Mechanic	Kandiah Arndt			2	\$73.00	\$146.00	\$0.00	\$146.00	\$240.80	\$34.82	\$421.72	\$210.86
Principal Geotechnical Engineer	Andrew Korte			40	\$57.00	\$2,280.00	\$0.00	\$2,280.00	\$3,782.00	\$543.78	\$6,585.78	\$164.64
Senior Geotechnical Engineer	Mike Kapsner			22	\$48.18	\$1,059.30	\$0.00	\$1,059.30	\$1,747.85	\$252.64	\$3,059.79	\$139.08
Senior Geologist	Bruce Schell			10	\$48.25	\$482.50	\$0.00	\$482.50	\$783.13	\$110.31	\$1,335.93	\$133.59
Senior Field Technician	Reynold Jr			24	\$43.80	\$1,051.20	\$0.00	\$1,051.20	\$1,734.48	\$250.71	\$3,036.39	\$126.52
Senior Laboratory Technician	Reynold Jr			30	\$29.50	\$885.00	\$0.00	\$885.00	\$1,460.25	\$211.07	\$2,556.32	\$85.21
Project Geotechnical Engineer	Pedro Espinosa			4	\$33.50	\$134.00	\$0.00	\$134.00	\$221.10	\$31.86	\$387.06	\$96.76
TOTAL =				132		\$6,018.00	\$0.00	\$6,018.00	\$9,929.70	\$1,435.29	\$17,382.99	

INDIRECT COST

Overhead	140.00%
General & Admin	25.00%
Total	165.00%

FEE (PROFIT)

OTHER DIRECT COSTS (ODC's)	Price Per Unit	Unit	Quantity	Total	WBS
Per Diem				\$0.00	
Cell Phone				\$0.00	
Travel				\$0.00	
Computer/Software				\$0.00	
Photocopying (Black & White)				\$0.00	
Photocopying (Color)				\$0.00	
Construction Planning	\$1.25	hour	2000	\$250.00	
Subcontractor	\$25.00	hour	2	\$50.00	
Materials				\$0.00	
Other				\$0.00	
Information Systems				\$0.00	
Subcontractor				\$0.00	
Computer/Software				\$0.00	
Drilling Cost Rental	\$500	hour	2	\$1,000.00	
Laboratory Soil Tests	\$102.5	test	2	\$2,050.00	
California Permit Inspector	\$32.5	hour	4	\$1,300.00	
SSC Flood Control District Permit	\$100.00	permit	1	\$100.00	
TOTAL OTHER DIRECT COSTS				\$6,578.00	

Escalation Per Year			
Year	# of Months	Esc.	Value
2016	12	1.000	0.000
2017	12	1.000	0.000
2018	12	1.000	0.000
2019	12	1.000	0.000
2020	12	1.000	0.000
2021	12	1.000	0.000
TOTAL	6		6.000
Escalation Factor for Contract			1.000

TOTAL COSTS

\$26,960.99

EARTH MECHANICS, INC.

STATE ROUTE 60 SOUND WALL PS&E  
PROFESSIONAL ENGINEERING DESIGN SERVICES

5/24/2010

Fully Loaded Hourly Rate (Direct Labor, Escalation, overhead, and profit)			\$270.30	\$164.84	\$178.00	\$133.59	\$128.35	\$85.21	\$96.79	TOTAL HOURS	TOTAL FULLY LOADED LABOR COST PER TASK	
PHASE	WBS	Staff Name	Staff Classification	Principal Engineer	Assistant Engineer	Senior Designer	Senior Designer	Senior Designer	Senior Designer			
				2	40	22	10	24	30	4	132	\$17,382.99
		TOTAL FOR PROJECT									130	\$17,053.70
3		PLANS SPECIFICATIONS & ESTIMATE (PS&E)		2	38	22	10	24	30	4	6	\$987.87
	3.100.15	PROJECT MANAGEMENT - PS&E COMPONENT		0	6	0	0	0	0	0	4	\$658.58
	3.100.15.01	Agency and Coordination Meetings									2	\$329.29
	3.100.15.02	Project Setup, Administration and Schedule									115	\$14,736.55
	3.185	PREPARE BASE MAPS & PLAN SHEETS		2	27	22	10	24	30	4	0	\$0.00
	3.185.05	Update Project Information									0	\$0.00
	3.185.10	Engineering and Photogrammetric Survey									0	\$0.00
	3.185.15	Preliminary Design									0	\$0.00
	3.185.20	Engineering Reports									115	\$14,736.55
	3.185.20.15	Geotechnical Design Report									0	\$0.00
	3.185.20.30	Noise Abatement Decision Report									0	\$0.00
	3.185.20.40	Utility Locations Determined for Design									0	\$0.00
	3.185.20.50	Storm Water Data Report									0	\$0.00
	3.185.20.60	Utility Research									0	\$0.00
	3.185.25	Right of Way Requirements Determination									9	\$1,329.29
	3.205	PERMITS, AGREEMENTS & ROUTE ADOPTIONS DURING PS&E		0	5	0	0	0	0	0	2	\$329.29
	3.205.05	Determine Required Permits									7	\$1,000.00
	3.205.10	Obtain Permits									0	\$0.00
	3.230	DRAFT PS&E		0	0	0	0	0	0	0	0	\$0.00
	3.230.05	Draft Roadway Plans									0	\$0.00
	3.230.10	Draft Highway Planting Plans									0	\$0.00
	3.230.25	Draft Utility Plans									0	\$0.00
	3.230.35	Draft Specifications									0	\$0.00
	3.230.40	Draft PS&E Quantities and Estimates									0	\$0.00
	3.255	FINAL DISTRICT PS&E PACKAGE		0	0	0	0	0	0	0	0	\$0.00
	3.255.10	Updated PS&E Package									0	\$0.00
	3.255.15	Environmental Reevaluation									0	\$0.00
	3.255.20	Final District PS&E Package									0	\$0.00
	3.255.35	Construction Staking Package and Control									0	\$0.00
	3.255.40	Resident Engineer's Pending File									0	\$0.00
	3.260	CONTRACT BID DOCUMENTS "READY TO LIST" - RTL		0	0	0	0	0	0	0	0	\$0.00
	3.260.50	Project Submittal Ready to Process (PS&E)									0	\$0.00
	3.260.80	Draft Contract Ready									0	\$0.00
	3.260.90	Ready to List									2	\$329.29
5		CONSTRUCTION		0	2	0	0	0	0	0	2	\$329.29
	5.270	CONSTRUCTION ENGINEERING & GENERAL CONTRACT ADMINISTRATION		0	2	0	0	0	0	0	2	\$329.29
	5.270.20	Construction Engineering Work										
		TOTAL FULLY LOADED LABOR COST PER CLASSIFICATION		\$421.72	\$4,585.76	\$3,059.79	\$1,335.93	\$3,036.39	\$2,556.32	\$387.06		

C10180

Attachment B

## ATTACHMENT 'B'

LDP DESIGN

### San Bernardino Associated Governments (SANBAG)

#### STATE ROUTE 60 SOUND WALL PS&E PROFESSIONAL ENGINEERING DESIGN SERVICES

June 7, 2010

#### I. DIRECT LABOR COSTS

Staff Classification	Initial Direct Hourly Rate	Hours	Total
LDP Landscape Architect Level 3	\$62.00	63	\$3,906.00
LDP Administrative Officer	\$35.00	14	\$490.00
LDP CAD Technician	\$28.00	88	\$2,464.00

Subtotal Hours & Direct Labor Costs	165	\$6,860.00
Anticipated Salary Increases		\$0.00
<b>Total Direct Labor Costs</b>		<b>\$6,860.00</b> (1)

#### II. INDIRECT COSTS

INDIRECT RATE      148.00 % x      \$ 6,860.00      =      Subtotal      \$10,152.80      (2)

Subtotal (1)

#### III. FEE (PROFIT)

9 % x      \$ 17,012.80      =      Subtotal      \$1,531.15      (3)

Total (1) + (2)

#### IV. OTHER DIRECT COSTS

Item	Amount
Car Mileage	\$188.00
Commercial Printing	\$100.00

Subtotal \$      \$288.00      (4)

#### V. TOTAL AMOUNT

\$18,824      (Total 1-4)

C10180

Attachment B

LDP DESIGN

## LABOR &amp; OTHER DIRECT COST (ODC) SUMMARY

STATE ROUTE 60 SOUND WALL PS&E  
PROFESSIONAL ENGINEERING DESIGN SERVICES

June 7, 2010

STAFF CLASSIFICATION	STAFF NAME	RANGE OF DIRECT HOURLY RATES		TOTAL HOURS	INITIAL DIRECT HOURLY RATE	SUB-TOTAL DIRECT LABOR COST	ANTICIPATED SALARY INCREASES	TOTAL DIRECT LABOR COST	TOTAL INDIRECT COST	FEE (PROFIT)	TOTAL LABOR COST	FULLY LOADED HOURLY RATE
		LOW	HIGH									
Landscape Architect	Grant Preegitzer			63	\$42.00	\$3,906.00	\$0.00	\$3,906.00	\$5,760.88	\$671.82	\$10,558.70	\$167.60
Administrative Office				24	\$36.00	\$480.00	\$0.00	\$480.00	\$725.20	\$109.37	\$1,324.57	\$94.61
Landscape Architect				86	\$28.00	\$2,464.00	\$0.00	\$2,464.00	\$3,646.72	\$549.96	\$6,660.68	\$75.69
TOTAL =				165		\$6,860.00	\$0.00	\$6,860.00	\$10,152.80	\$1,531.15	\$18,543.95	

## INDIRECT COST

Overhead	125%	64.00%
General & Admin	125%	84.00%
Total		148.00%

FEE (PROFIT)

OTHER DIRECT COSTS (ODC's)	Price Per Unit	Unit	Quantity	Total	WBS
Car Mileage	\$0.50	mile	360	\$180.00	
Travel				\$0.00	
Computer Charges				\$0.00	
Photocopies (Black & White)				\$0.00	
Photocopies (Color)				\$0.00	
Commercial Printing	\$0.25	each	400	\$100.00	
Mail/Online				\$0.00	
Photomount				\$0.00	
Illustrations/Graphic Design				\$0.00	
Rental Contract Equipment				\$0.00	
Contract Speed Surveys				\$0.00	
TOTAL OTHER DIRECT COSTS				\$280.00	

Escalation Per Year =			1.00%
2010	1,000	0.000	
2011	1,000	6.000	
2012	1,000	0.000	
2013	1,000	0.000	
2014	1,000	0.000	
2015	1,000	0.000	
TOTAL	6	6.000	
Escalation Factor for Contract			1.060

TOTAL COSTS

\$18,823.95

## LDP DESIGN

STATE ROUTE 60 SOUND WALL PS&E  
PROFESSIONAL ENGINEERING DESIGN SERVICES

6/7/2010

Fully Loaded Hourly Rate (Direct Labor, Escalation, overhead, and profit)		\$187.00	\$94.01	\$75.69	TOTAL HOURS	TOTAL FULLY LOADED LABOR COST PER TASK
PHASE	WBS	Staff Name	Staff Classification	Staff Classification		
		Staff Name	Staff Classification	Staff Classification		
		Staff Classification	Staff Classification	Staff Classification		
		63	14	88	165	\$18,543.95
		TOTAL FOR PROJECT				
3		PLANS SPECIFICATIONS & ESTIMATE (PS&E)				\$17,873.56
	3.100.15	PROJECT MANAGEMENT - PS&E COMPONENT				\$3,384.41
	3.100.15.01	Agency and Coordination Meetings				\$2,335.56
	3.100.15.02	Project Setup, Administration and Schedule				\$1,048.84
	3.185	PREPARE BASE MAPS & PLAN SHEETS				\$2,368.00
	3.185.05	Update Project Information				\$1,092.09
	3.185.10	Engineering and Photogrammetric Survey				\$0.00
	3.185.15	Preliminary Design				\$1,275.91
	3.185.20	Engineering Reports				\$0.00
	3.185.20.15	Geotechnical Design Report				\$0.00
	3.185.20.30	Noise Abatement Decision Report				\$0.00
	3.185.20.40	Utility Locations Determined for Design				\$0.00
	3.185.20.50	Storm Water Data Report				\$0.00
	3.185.20.40	Utility Research				\$0.00
	3.185.25	Right of Way Requirements Determination				\$0.00
	3.205	PERMITS, AGREEMENTS & ROUTE ADOPTIONS DURING PS&E				\$0.00
	3.205.05	Determine Required Permits				\$0.00
	3.205.10	Obtain Permits				\$0.00
	3.230	DRAFT PS&E				\$9,515.26
	3.230.05	Draft Roadway Plans				\$0.00
	3.230.10	Draft Highway Planting Plans				\$7,928.49
	3.230.15	Draft Traffic Plans				\$0.00
	3.230.20	Transportation Management Plan				\$0.00
	3.230.25	Draft Utility Plans				\$0.00
	3.230.30	Draft Drainage Plans				\$0.00
	3.230.35	Draft Specifications				\$1,173.19
	3.230.40	Draft PS&E Quantities and Estimates				\$413.59
	3.255	FINAL DISTRICT PS&E PACKAGE				\$1,935.49
	3.255.10	Updated PS&E Package				\$1,935.49
	3.255.15	Environmental Reevaluation				\$0.00
	3.255.20	Final District PS&E Package				\$0.00
	3.255.35	Construction Staking Package and Control				\$0.00
	3.255.40	Resident Engineer's Pending File				\$0.00
	3.260	CONTRACT BID DOCUMENTS "READY TO LIST" - RTL				\$670.39
	3.260.50	Project Submittal Ready to Process (PS&E)				\$670.39
	3.260.80	Draft Contract Ready				\$0.00
	3.260.90	Ready to List				\$0.00
5		CONSTRUCTION				\$670.39
	5.270	CONSTRUCTION ENGINEERING & GENERAL CONTRACT ADMINISTRATION				\$670.39
	5.270.20	Construction Engineering Work				\$670.39
		TOTAL FULLY LOADED LABOR COST PER CLASSIFICATION				
		\$10,558.70	\$1,324.57	\$6,660.68		

C10180

Attachment B

## ATTACHMENT 'B'

PSOMAS

### San Bernardino Associated Governments (SANBAG)

#### STATE ROUTE 60 SOUND WALL PS&E PROFESSIONAL ENGINEERING DESIGN SERVICES

May 24, 2010

#### I. DIRECT LABOR COSTS

Staff Classification	Initial Direct Hourly Rate	Hours	Total
Surveyor PM	\$75.00	10	\$750.00
Surveyor Office	\$45.00	36	\$1,620.00
Surveyor CADD	\$40.00	44	\$1,760.00
Survey Party Chief	\$44.86	22	\$1,076.64
Survey Instrumentman	\$40.31	24	\$967.44

Subtotal Hours & Direct Labor Costs	138	\$6,174.08	
Anticipated Salary Increases		\$0.00	
Total Direct Labor Costs		\$6,174.08	(1)

#### II. INDIRECT COSTS

INDIRECT RATE      160.00 % x      \$      6,174.08      =      Subtotal      \$9,878.53      (2)

Subtotal (1)

#### III. FEE (PROFIT)

9 % x      \$      16,052.61      =      Subtotal      \$1,444.73      (3)

Total (1) + (2)

#### IV. OTHER DIRECT COSTS

Item	Amount
Per Diem	\$0.00
Car Mileage	\$0.00
Travel	\$0.00
Computer Charges	\$0.00
Photocopies (Black & White)	\$0.00
Photocopies (Color)	\$0.00
Commercial Printing	\$0.00
Mail/Courier	\$0.00
Photographs	\$0.00
Intersection Traffic Counts	\$0.00
Ramp/Segment Counts	\$0.00
Corridor Speed Surveys	\$0.00
a	\$0.00
b	\$0.00
c	\$0.00
d	\$0.00
e	\$0.00

Subtotal \$      \$0.00      (4)

#### V. TOTAL AMOUNT

\$17,497      (Total 1-4)

<b>TOTAL COSTS</b>	<b>\$17,497.34</b>
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PSOMAS

**STATE ROUTE 60 SOUND WALL PS&E  
PROFESSIONAL ENGINEERING DESIGN SERVICES**

5/24/2010

Fully Loaded Hourly Rate (Direct Labor, Escalation, overhead, and profit)			\$212.50	\$127.33	\$113.36	\$127.19	\$114.24		
PHASE	WBS	Staff Name	Chris Sumrell	Sean Smith	Greg Jeffries	To Be Named	To Be Named	TOTAL HOURS	TOTAL FULLY LOADED LABOR COST PER TASK
		Staff Classification	Surveyor P&E	Surveyor Office	Surveyor O&M	Survey Party Chief	Survey Instrumentation		
TOTAL FOR PROJECT			10	36	44	24	24	138	\$17,497.34
3	PLANS SPECIFICATIONS & ESTIMATE (PS&E)		10	36	44	24	24	138	\$17,497.34
	3.100.15	PROJECT MANAGEMENT - PS&E COMPONENT	0	0	0	0	0	0	\$0.00
	3.100.15.01	Agency and Coordination Meetings						0	\$0.00
	3.100.15.02	Project Setup, Administration and Schedule						0	\$0.00
	3.185	PREPARE BASE MAPS & PLAN SHEETS	10	36	44	24	24	138	\$17,497.34
	3.185.05	Update Project Information						10	\$1,445.34
	3.185.10	Engineering and Photogrammetric Survey						104	\$12,762.64
	3.185.15	Preliminary Design						0	\$0.00
	3.185.20	Engineering Reports						0	\$0.00
	3.185.20.15	Geotechnical Design Report						0	\$0.00
	3.185.20.30	Noise Abatement Decision Report						0	\$0.00
	3.185.20.40	Utility Locations Determined for Design						0	\$0.00
	3.185.20.50	Storm Water Data Report						0	\$0.00
	3.185.20.40	Utility Research						0	\$0.00
	3.185.25	Right of Way Requirements Determination						24	\$3,289.37
	3.205	PERMITS, AGREEMENTS & ROUTE ADOPTIONS DURING PS&E	0	0	0	0	0	0	\$0.00
	3.205.05	Determine Required Permits						0	\$0.00
	3.205.10	Obtain Permits						0	\$0.00
	3.230	DRAFT PS&E	0	0	0	0	0	0	\$0.00
	3.230.05	Draft Roadway Plans						0	\$0.00
	3.230.10	Draft Highway Planting Plans						0	\$0.00
	3.230.25	Draft Utility Plans						0	\$0.00
	3.230.35	Draft Specifications						0	\$0.00
	3.230.40	Draft PS&E Quantities and Estimates						0	\$0.00
	3.255	FINAL DISTRICT PS&E PACKAGE	0	0	0	0	0	0	\$0.00
	3.255.10	Updated PS&E Package						0	\$0.00
	3.255.15	Environmental Reevaluation						0	\$0.00
	3.255.40	Resident Engineer's Pending File						0	\$0.00
	3.260	CONTRACT BID DOCUMENTS "READY TO LIST" - RTL	0	0	0	0	0	0	\$0.00
	3.260.50	Project Submittal Ready to Process (PS&E)						0	\$0.00
	3.260.80	Draft Contract Ready						0	\$0.00
	3.260.90	Ready to List						0	\$0.00
	TOTAL FULLY LOADED LABOR COST PER CLASSIFICATION			\$2,125.50	\$4,981.08	\$4,987.84	\$3,051.20	\$2,741.72	

C10180

Attachment B

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
 ■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

## *Minute Action*

AGENDA ITEM: 12

**Date:** August 4, 2010

**Subject:** Amendment to SANBAG Contract C08-013 with LAN Engineering Corporation for engineering and environmental services on the I-15/I-215 Devore Interchange Improvements project

**Recommendation:\*** Approve Amendment No. 1 to SANBAG Contract C08-013 with LAN Engineering Corporation for engineering and environmental services on the I-15/I-215 Devore Interchange Improvements project for a time extension to January, 2013; increase of \$982,922 in the total contract limit to a new limit of \$8,057,806.00; and an assignment of the contract from LAN Engineering Corporation to AECOM Technical Services, Inc.

**Background:** **This is an amendment to an existing contract.** On July 11, 2007, the SANBAG Board approved a contract with LAN Engineering Corporation for engineering and environmental services for the I-15/I-215 Devore Interchange Improvements project. The scope of this work included preparation of a Project Study Report, followed by preparation of a Project Report and Environmental Document for the project.

The Project Study Report (PSR) was approved in March, 2009 and progress continues towards completion of the Project Report (PR) and an environmental document (ED). Over the course of this project, however, a number of opportunities and issues have altered the scope and cost to the project and have extended the schedule. Some of these include developing a lower cost alternative

\*

*Approved  
 Board of Directors*

*Date:* \_\_\_\_\_

*Moved:* \_\_\_\_\_ *Second:* \_\_\_\_\_

*In Favor:* \_\_\_\_\_ *Opposed:* \_\_\_\_\_ *Abstained:* \_\_\_\_\_

*Witnessed:* \_\_\_\_\_

<input type="checkbox"/>	COG	<input type="checkbox"/>	CTC	<input checked="" type="checkbox"/>	CTA	<input type="checkbox"/>	SAFE	<input type="checkbox"/>	CMA
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Check all that apply

BRD1008e-gc

Attachment: C08013-01

to the PSR alternatives; developing a new alternative to address public concern with project components (specifically location and access to the Devore Road Interchange); additional required testing for fault rupture and aerially deposited lead; addressing issues raised by FHWA in regards to the proposed slip ramps on the freeway to freeway connectors ; and addressing environmental sensitivities to the alignment of the proposed reconnection of Cajon Boulevard, old Route 66.

In addition to the design and environmental issues that have arisen through the course of the project, the delivery method for the project has also changed. The original scope of the project was to bring the project through the Project Approval/Environmental Document (PA/ED) phase in preparation for a subsequent project for detail design. At the January, 2010 Board meeting, authorization was given to pursuing a design-build delivery method. The California Transportation Commission (CTC) approved this project for design-build delivery at its June 30/July 1 2010 meeting. To produce a procurement package for design-build in lieu of moving from PA/ED on to detail design, there will be some additional design tasks required to prepare this package. Due to the demands of expedited delivery of the project, staff and Caltrans recommend having the on-board consultant, AECOM Technical Services, Inc. (AECOM), execute some or all of these additional tasks, in conjunction with Caltrans and SANBAG staff. Since AECOM is already very familiar with the project and the design, these additional tasks, such as development of preliminary right of way requirements, initial site investigation, and more detailed investigation of utility conflicts and potholing are included in the amended scope of services, with the services to be provided on an as needed basis. SANBAG staff and Caltrans are working together to identify project elements requiring additional definition to reduce risk and cost associated with a preliminary design package included in the design-build procurement package. AECOM will also be required on an as needed basis to be available through the design-build procurement process to address technical questions or provide clarification. As a result of this additional support and added services, the duration of the contract is being extended an additional two years to January, 2013.

Due to the need for the additional services and the revised scope items, there will be an increase in the contract costs. This amendment will increase the base contract amount by \$912,922 and add an additional \$70,000 to the contract contingency. This will increase the total contract limit to \$8,057,806. The funding for this contract is from the Measure I 2040 Valley Cajon Pass Fund.

This amendment also addresses a change the consultant. This contract was executed with LAN Engineering Corporation (LAN). Last year, LAN was acquired by AECOM. This amendment will transfer the consultant contract

responsibilities from LAN to AECOM; however, much of the same key staff will still be involved on the project.

This amendment, then, addresses the added costs and services that are or may be needed to complete this phase of the project, addresses the required additional time to complete the work and provide support through the design-build procurement, and addresses the assignment of responsibilities from LAN to AECOM.

***Financial Impact:*** This item is consistent with the 2010/11 SANBAG Budget. Funding for the Contract is provided by Project No. 88011000. The funding source is Measure I 2040 Valley Cajon Pass Funds

***Reviewed By:*** This item was reviewed and recommended for approval (12-0-1; Abstained: Gonzales), by the Major Projects Committee on July 15, 2010. SANBAG Counsel has reviewed and approved the agreement as to form.

***Responsible Staff:*** Garry Cohoe, Director of Project Delivery

SANBAG Contract No. C08013-01  
by and between  
San Bernardino County Transportation Authority  
and  
AECOM Technical Services, Inc.  
for

Engineering and Environmental Services for I-15/I-215 Interchange Improvements Project

**FOR ACCOUNTING PURPOSES ONLY**

<input checked="" type="checkbox"/> Payable <input type="checkbox"/> Receivable	Vendor Contract # Vendor ID _____	Retention: <input type="checkbox"/> Yes _____ % <input checked="" type="checkbox"/> No	<input type="checkbox"/> Original <input checked="" type="checkbox"/> Amendment				
Notes:							
Original Contract: <b>\$ 6,431,713</b>		Previous Amendments <b>\$ 0</b>					
Contingency / Allowance Amount <b>\$ 643,171</b>		Previous Amendments <b>\$ 0</b>					
		Contingency / Allowance Total:					
		Current Amendment: <b>\$ 912,922</b>					
		Current Amendment Contingency / Allowance: <b>\$ 70,000</b>					
Contingency Amount requires specific authorization by Task Manager prior to release.							
<b>Contract TOTAL ►</b>			<b>\$ 8,057,806.00</b>				
* Funding sources remain as stated on this document unless and until amended by proper authority. Funding sources are those which are ultimately responsible for the expenditure.							
▼ Include funding allocation for the original contract or the amendment							
Main Task/ Project	Level 1	Level 2	Cost Code/ Object	Grant ID/ Supplement	Funding Sources/ Fund (Measure I, STP, CMAQ, etc.)	Type	Amounts for Contract Total or Current Amndmnt Amt
880	620	000	52005	99076	Measure I 2040 Cajon Pass Fund		\$ 982,922
Original Board Approved Contract Date:				7/11/07	Contract Start: 7/11/07		Contract End: 1/11/11
New Amend. Approval (Board) Date:				8/4/10	Amend. Start: 8/4/10		Amend. End: 1/15/13
Allocate the Total Contract Amount or Current Amendment amount between Approved Budget Authority in the current year and Future Fiscal Year(s) Unbudgeted Obligation.							
Approved Budget Authority ►		Fiscal Year: 10/11 \$ 982,922		Future Fiscal Year(s) - Unbudgeted Obligation ►		\$ 0	
<input checked="" type="checkbox"/> Budget authority for this contract currently exists in Task No. 880 (C-Task may be used here.).							
<input type="checkbox"/> A budget amendment is required. A Budget Amendment Request is attached.							
<b>CONTRACT MANAGEMENT</b>							
Check all applicable boxes:							
<input type="checkbox"/> Intergovernmental		<input checked="" type="checkbox"/> Private		<input type="checkbox"/> Federal Funds		<input type="checkbox"/> State/Local Funds	
<input type="checkbox"/> Disadvantaged Business Enterprise (DBE)				<input type="checkbox"/> Underutilized DBE (UDBE)			
Task Manager: Garry Cohoe				Contract Manager: Dennis Saylor			

Task Manager Signature: Garry Cohoe Date: 7/8/10

Chief Financial Officer Signature: [Signature] Date: 7/20/10

Contract Manager Signature: Dennis Saylor Date: 7/8/10

AMENDMENT NO. 1  
AGREEMENT BETWEEN

SAN BERNARDINO ASSOCIATED GOVERNMENTS/  
SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY

AND

AECOM TECHNICAL SERVICES, INC.

FOR

ENGINEERING AND ENVIRONMENTAL SERVICES FOR I-15/I-215 INTERCHANGE  
IMPROVEMENTS PROJECT

This AMENDMENT NO. 1 to CONTRACT NO. 08-013 entered into as of this Fourth day of August, 2010, by the firm of LAN Engineering Corporation (hereafter called CONSULTANT) and San Bernardino Associated Governments/San Bernardino County Transportation Authority (hereafter called SANBAG):

WITNESSETH:

WHEREAS, SANBAG, under SANBAG Contract No. 08-013 has engaged the services of CONSULTANT to provide Engineering and Environmental Services for the I-15/I-215 Interchange Improvements Project; and

WHEREAS, additional services are required beyond the scope of the original contract; and

WHEREAS, the duration of these activities will extend beyond the current completion date of the existing contract; and

WHEREAS, the SANBAG and CONSULTANT executed Contract 08-013 for Engineering and Environmental Services dated July 11, 2007; (hereafter called the "Contract"); and

WHEREAS, CONSULTANT, a California corporation, ("Assignor") wishes to assign the Contract to its parent company, AECOM Technical Services, Inc., a California corporation, ("Assignee"), Tax Identification Number 95-2661922; and

WHEREAS, SANBAG consents to the assignment of the Contract.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

#### ASSIGNMENT

Assignor hereby assigns, transfers and conveys all of its rights, obligations, title, interest and liabilities in and to the Contract to Assignee. Assignee hereby accepts such assignment and assumes all of Assignor's rights, obligations, title, and liabilities in and to the Contract, whether such rights, obligations, title, interest or liabilities arose before or after the date of this Agreement.

#### CONSENT TO ASSIGNMENT

SANBAG hereby consents to the assignment of the Contract from Assignor to Assignee and agrees to look solely to Assignee for the continued performance of the contract.

NOW THEREFORE, the parties hereto do mutually agree to amend Contract No. 08-013 as follows:

1. Revise Article 1, Description of Services, to add Attachment "C" to the Services to be performed by CONSULTANT.
2. Replace Article 2.1, with the following:

"The Period of Performance by CONSULTANT under this Contract shall commence on July 11, 2007 and shall continue in effect until January 15, 2013 or until otherwise terminated or canceled as hereinafter directed, or unless extended by direction of SANBAG".
3. Under Article 3, Contract Price and Principles, revise Section 3.2 to read as follows:

The total cost shall not exceed \$7,344,635 with a contingency of \$713,171 for a total contract cost of \$8,057,806.00. Services to be provided under the terms of this contract are to be provided on an as needed basis and compensated for as set forth in Attachment "B" and Attachment "C" which are incorporated herein by reference. Utilization of the contingency is not permitted unless directed in writing by SANBAG Project Manager. CONSULTANT'S fee for services is included in the total estimated contract cost and shall be based on a fixed percentage rate, as noted in Attachment "B".

4. Under Article 3, Contract Price and Principles, revise the first sentence of Section 3.6 to read as follows:

Any Services provided by the CONSULTANT not specifically covered by the Scope of Services (Attachment "A") and Attachment "C" shall not be compensated without prior written authorization from SANBAG.

5. Revise Article 15, Section 15.2 to show the following key personnel:

Mario Montes, Nisa Hester, Norm Suydam, Lyn Calderine (LSA)

6. Except as amended by this Amendment, all other provisions of Contract No. 08-013 shall remain in full force and effect.

IN WITNESS THEREOF, the authorized parties have signed on the following page:

**ASSIGNOR**  
**LAN ENGINEERING CORPORATION**

By: 

Date: 07/26/10

**ASSIGNEE**  
**AECOM TECHNICAL SERVICES, INC.**

By: 

Date: 7/23/10

**SAN BERNARDINO ASSOCIATED  
GOVERNMENTS/SAN BERNARDINO  
COUNTY TRANSPORTATION  
AUTHORITY**

By: \_\_\_\_\_

Brad Mitzelfelt, President  
SANBAG Board of Directors

Date: \_\_\_\_\_

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

Jean-Rene Basle  
SANBAG Counsel



AECOM  
1131 W. 6<sup>th</sup> Street  
Suite 350  
Ontario, CA 91762  
www.aecom.com

909 933 5225 tel  
909 933 5228 fax

July 8, 2010

**Mr. Dennis Saylor**  
*SANBAG Project Manager*  
1170 W. 3rd St., 2nd Floor  
San Bernardino, CA 92410-1715

**Subject: I-15/I-215 Devore Contract No. C08-013 – Amendment 1, Attachment C**

Dear Mr. Saylor,

The AECOM team is proceeding with all the tasks leading to circulation of the environmental document for the I-15/I-215 Devore Interchange Project (Project). SANBAG, in cooperation with Caltrans, has identified additional tasks that were not included in the original Project scope of services. This letter serves to document the additional scope of work necessary to complete these tasks. The total cost of this effort is \$912,922. The tasks are described below and the hours and costs are summarized in Exhibit 1 and 2.

#### **1. Devore Road Interchange Slip Ramp Studies and Revisions**

Maintaining freeway access for residents of the Devore community is an important element of the project. The ramp design proposed provides access to the freeway to freeway connectors, and to the freeway. This design was proposed in the original, approved PSR, with one of the benefits being the design minimized impacts to sensitive, wildlife habitat. After discussions with FHWA, the project team learned that new highway design criterion does not allow this type of ramp design. SANBAG requested that AECOM prepare a detailed justification for the proposed design. AECOM, FHWA, Caltrans, and SANBAG have reached agreement on an acceptable ramp design which will facilitate approval by FHWA in Washington. AECOM will update the Project Report, the Modified Access Report, and the project plans to incorporate the new ramp design. This data will also be used to incorporate this change in the environmental studies. The Advance Planning Study for Alternative 3A will need to be revised and structure plans for the other alternatives will need to be updated. This effort was not included in the original project scope and is estimated to cost \$102,769.

#### **2. Cajon Blvd. Minimization**

The Project proposes to reconnect two segments of Cajon Boulevard (Historic Route 66) separated when the I-15/I-215 Interchange was originally constructed. The proposed design for this segment was based upon input from the County of San Bernardino and the approved PSR; however the roadway would pass adjacent to Cajon Creek and through an environmentally sensitive habitat. After preliminary discussions with several resource agencies, SANBAG and Caltrans agreed to evaluate design changes to reduce impacts to sensitive habitat. In order to mitigate this impact, the County, SANBAG, and Caltrans agreed that the Cajon Boulevard alignment should be modified to reduce impacts to Cajon Creek and the adjacent sensitive habitat. This task includes but is not limited to the following work in support of creating and analyzing this new alignment for Cajon Boulevard: layout plan/ profile, cross sections, cut and fill, soil disturbances, grading, digital terrain models, right of way analysis, BMPs, construction staging, hydraulic analysis, structure site plans, environmental impact analysis, cost estimate, and also includes modifying the Storm Water Data Report, Draft Project Report, Advanced Planning Studies, Modified Access Report, right of way data sheets, and support for

C08013-01

environmental technical study updates. This change to the project design will reduce environmental mitigation costs and facilitate approval of the project by the resource agencies. This effort was not included in the original project scope and is estimated to cost \$223,235.

### **3. Cajon Boulevard Finding of Effect**

After review of the environmental technical studies, Caltrans determined that reconnecting Cajon Boulevard, as well as proposed improvements at the Cajon/Kenwood intersection, would have an effect on Historic Route 66. Cajon Boulevard is currently eligible for listing as a historic resource therefore the project will need approval from the State Historic Preservation Officer (SHPO). Caltrans recommended that a Finding of Effect (FOE) be prepared to document the effects of the project on this resource. The AECOM team is preparing an FOE to document the effect the project will have on Cajon Boulevard. This effort includes engineering and design to support preparation of visual simulations, documenting the impact from the driver's perspective and evaluating the effect on the existing highway. This effort was not included in the original project scope and is estimated to cost \$23,067.

### **4. Revisions to Accommodate Future I-15 Improvements**

SANBAG is currently studying future improvements on the I-15 Corridor from the Riverside County line to the High Desert. Several alternatives are being considered, which would require major construction within the limits of the Project. The proposed I-15 improvements are generally in the median of the freeway. These improvements need to be coordinated with the Project to ensure that no major elements need to be reconstructed when the I-15 Corridor improvements are implemented. This has required review of I-15 Corridor plans and coordination with SANBAG's I-15 Corridor consultant. AECOM is currently evaluating potential modifications to the Project geometry to accommodate future improvement on I-15. This effort was not included in the original project scope and is estimated to cost \$32,129.

### **5. Design-Build Support**

The Project will use the Design-Build delivery method. Caltrans will be the lead agency and will prepare the bid documents. SANBAG and Caltrans have asked AECOM to study various project issues impacting the delivery of the Project. These studies include construction staging, right of way impacts, and utility impacts. AECOM will also provide ongoing design-build support as requested by SANBAG and Caltrans. This effort was not included in the original project scope and is estimated to cost \$45,028.

### **6. Additional Printing and Reprographics**

The development of the Project includes the preparation of draft and final versions of technical studies, reports, fact sheets, special studies, exhibits and drawings. The original scope of work included an estimated number of copies of reports and drawings. Due to the complexity of the project and the number of design revisions that have occurred since project inception, Caltrans and SANBAG have requested significantly more copies of reports and drawings than were original estimated. Additional budget is required for printing and copies of the various project documents. This additional effort is estimated to cost \$27,000.

## **7. Preliminary Right of Way Requirement Drawings**

Right of way required for the project cannot be acquired until after a preferred alternative is selected and the project is environmentally approved. However, some properties that are likely to be full acquisitions (core parcels) regardless of the alternative selected, may be acquired under special circumstances. The initial step in this process is the preparation of preliminary right of way requirement drawings that show the right of way needed for the project. To expedite this process AECOM will prepare the preliminary right of way requirement drawings for the locally preferred alternative. Core parcels will be evaluated with regard to all the alternatives. This will allow Caltrans and SANBAG to advance the acquisition of the core parcels and help keep the overall project on schedule. The work was not included in the original scope of work since it is normally done during the final engineering stage of the project. The estimated cost of this effort is \$33,448.

## **8. Preliminary Site Investigations**

Preliminary Site Investigations are typically conducted during the final design phase of the project. Recently, Caltrans has requested that this activity be conducted during the Project Report/Environmental Document Phase. At this point in the development of the project, right of way has not been acquired. Caltrans and SANBAG were consulted regarding the benefit of performing a partial, preliminary site investigation and they agreed that the work should be done during the current phase of the project. This investigation would be conducted within existing Caltrans right of way for Aerially Deposited Lead and Asbestos. In addition, environmental file reviews will be performed for select properties within the project limits. This effort was not included in the original project scope and is estimated to cost \$141,545.

## **9. Additional Right of Way Data Sheets and Revisions**

The Project Report and environmental studies now include the evaluation of four alternatives. Caltrans requires a right of way data sheet for each alternative being evaluated in the environmental document. Two additional right of way data sheets were prepared for the project. The original scope of work assumed that only two alternatives would be evaluated in the environmental document. Several design changes including the Cajon Boulevard realignment required updates to the completed right of way data sheets. These updates required additional effort from the right of way subconsultant OPC. This effort was not included in the original project scope and is estimated to cost \$68,082.

## **10. Survey of Extended project limits**

During development of the Project Report Alternatives, Caltrans and SANBAG agreed to extend the limits of the project in the northerly direction. Aerial mapping of the extended area has been completed and is not included in this request. The extended area will require that additional field survey work be performed. This information is needed to prepare the geometric approval drawing and preliminary plans for the project report. The estimated cost of this effort is \$12,000.

## **11. Additional Environmental Efforts**

Our team has worked closely with SANBAG and Caltrans to establish requirements for various technical studies. The scope and effort of most of the studies have been greatly impacted by changes in the project and changes in Caltrans requirements. These changes include:

- Due to the rigid project schedule, work on studies is started before full and final data are available. This approach has reduced schedule time but results in additional costs for continual revisions of technical studies as better information becomes available.
- The project study area was extended to the north after initial research for the technical reports had been completed.
- Two additional alternatives were added to the environmental document, each requiring full analysis.
- After environmental work was started on the alternatives, the designs were changed, requiring substantial reworking of technical studies and analyses.
- Caltrans requested greatly expanded scopes of work for the Community Impact Assessment and Cultural documents.
- Additional environmental services to support authorization of geotechnical trenching. After these services were completed, the resource agency requested a San Bernardino Kangaroo Rat Survey of one of the properties. Agencies will also require paleontological and biological monitoring during construction; these monitors will be provided by LSA.
- Project management costs have substantially exceeded the original estimate, in part because there have been many more meetings than projected in the original scope. In addition to PDT meetings, the environmental team is attending numerous environmental focus meetings and AECOM coordination meetings. Late changes in project design also incur additional management costs.
- Cajon Boulevard has been redesigned to reduce biological and cultural impacts.
- The Finding of Effect scope was expanded by Caltrans to include all Build Alternatives and to analyze the entire length of Cajon Blvd to Cleghorn Road.

The total additional cost to complete the environmental document for the project is \$384,619.

AECOM appreciates the opportunity to support SANBAG in the development of the I-15/I-215 Devore Interchange Project. We look forward to completing the Project Report/Environmental Document and supporting the next phase of the project.

Please contact us, should you have any comments or questions.

Respectfully submitted,



Mario A. Montes, P.E.  
Project Manager  
(909) 933-5225 x225

## COST AND PRICE ANALYSIS

## SAN BERNARDINO ASSOCIATED GOVERNMENTS

NAME OF CONSULTANT		TITLE OF PROJECT		
AECOM		I-15/I-215 Devore Interchange - Amendment 1 Summary		
Detail Description	Estimated Hours	(Average) Rate/Hour	Total Estimated Cost (\$)	
1. DIRECT LABOR (Specify) SEE CONTINUATION SHEET				
PROJECT MGR	60	\$84.22	5,053.20	
TECHNICAL DIRECTOR	208	\$79.36	16,506.88	
DEPUTY PROJECT MANAGER	152	\$54.34	8,259.68	
ENGINEER IV/BRIDGE	279	\$51.00	14,229.00	
ENGINEER III	381	\$44.00	16,764.00	
ENGINEER II	54	\$37.00	1,998.00	
ENGINEER I/CADD	152	\$29.00	4,408.00	
TECHNICAL DIRECTOR - BRIDGE	91	\$80.30	7,307.30	
SENIOR BRIDGE ENGINEER	73	\$59.00	4,307.00	
SENIOR CADD TECHNICIAN	220	\$45.00	9,900.00	
ENVIRONMENTAL MANAGER	135	\$50.14	6,768.90	
ADMINISTRATIVE ASSISTANT	42	\$23.00	966.00	
EXPENDED OUT OF SCOPE LABOR			96,529.29	
TOTAL		1,847		\$192,997.25
2. INDIRECT COSTS (Overhead,G&A-specify)	Burden Rate	X Base =	Burden (\$)	
	125.00%	\$192,997.25	\$241,246.57	\$241,246.57
3. TOTAL DIRECT LABOR AND INDIRECT COSTS (Sum of lines 1 and 2)				\$434,243.82
4. FIXED FEE OR PROFIT (Specify, applies to line 3 only)	Percent	X Base =	Fee (\$)	
	10.00%	\$434,243.82	\$43,424.38	\$43,424.38
TOTAL				\$43,424.38
5. OTHER DIRECT COSTS				
Copying/Binding				\$27,000.00
Arellano Associates				\$0.00
LSA				\$369,936.00
Stantec				\$138,236.00
Associated Engineers				\$80,082.00
Traffic Study Scope Reduction				-\$180,000.00
6. TOTAL CONTRACT COST (Sum of lines 3, 4 and 5)				\$912,922
DATE				
July 8, 2010				

I-15/I-215 Devore Interchange  
SANBAG Contract C08-013  
AECOM Amendment 1 Summary  
8-Jul-10

Scope Changes	Subconsultants & ODC Costs	Expended Costs AECOM as of 5/30/10	← Estimate to Complete Hours →													ETC Labor		Total Costs
			Project Manager	Tech Director	Deputy PM	Engineer IV	Engineer III	Engineer II	Engineer I/CADD	Tech Dir. Bridge	Sr. Engr Bridge	Sr. CADD	Envir Manager	Admin Assistant	Total Hours	Subtotal Costs		
1. Devore Road IC Slip Ramp Studies and Revisions		\$34,523	10	25	25	50	133	54	40	46	37	110	20		550	\$68,246	\$102,769	
2. Cajon Blvd. Minimization		\$159,194	5	20	20	40	203		30	45	36	110	5		514	\$64,041	\$223,235	
3. Cajon Blvd. Finding of Effect		\$13,641		10	10	10	20		20				10		80	\$9,426	\$23,067	
4. Revisions to Accommodate Future I-15 Improvements		\$9,684	5	30	20	80	25								160	\$22,445	\$32,129	
5. Design-Build Support		\$21,868	16	35	25	35			20				20	22	173	\$23,160	\$45,028	
6. Additional printing and reprographics	\$27,000														0		\$27,000	
7. Preliminary Right of way requirement drawings (30 Sheets)			24	48	32	64			42				20	20	250	\$33,448	\$33,448	
8. Preliminary Site Investigations (S)	\$138,236			10	10										20	\$3,309	\$141,545	
9. Additional Right of Way Data Sheets & Revisions (AE)	\$68,082														0	\$0	\$68,082	
10. Survey of extended project limits (AE)	\$12,000														0	\$0	\$12,000	
11. Additional Environmental Efforts (LSA)	\$369,936			30	10								60		100	\$14,683	\$384,619	
Reduction in Traffic Analysis Effort	-\$180,000		60	208	152	279		381	54	152	91	73	220	135	42	\$238,758	-\$180,000	
Subtotal Subconsultant	\$435,254																	
Subtotal AECOM Expended Costs		\$238,910																
Total																	\$912,922	

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

## *Minute Action*

AGENDA ITEM: 13

**Date:** August 4, 2010

**Subject:** Construction Management Services on State Street/University Parkway Grade Separation Construction Project

**Recommendation:\*** Approve Amendment No. 2 to Contract C07024 with Harris & Associates for Construction Management Services on State Street/University Parkway Grade Separation Construction Project, extending the completion date to November 30, 2010 with no increase to contract amount.

**Background:** This is a time extension amendment to an existing contract only. In December, 2006 the Board authorized the award of the construction management services contract to Harris & Associates for the State Street/University Parkway Grade Separation Project. Construction was completed in March 2009, and final project acceptance was received in July 2009.

The project team is currently completing the Record of Survey. Once complete, the Record of Survey will be submitted by Harris & Associates to the County of San Bernardino for approval. This effort is expected to be finished by October 2010. The remaining work can be completed with no additional budget required.

**Financial Impact:** This item imposes no financial impact to the current fiscal budget.

**Reviewed By:** This item was reviewed and recommended for approval (11-0-1; Abstained: Gonzales), by the Major Projects Committee on July 15, 2010. SANBAG Counsel has reviewed and approved the agreement as to form.

**Responsible Staff:** Garry Cohoe, Director of Project Delivery

\*

*Approved  
Board of Directors*

*Date:* \_\_\_\_\_

*Moved:* \_\_\_\_\_ *Second:* \_\_\_\_\_

*In Favor:* \_\_\_\_\_ *Opposed:* \_\_\_\_\_ *Abstained:* \_\_\_\_\_

*Witnessed:* \_\_\_\_\_

<input type="checkbox"/>	COG	<input type="checkbox"/>	CTC	<input checked="" type="checkbox"/>	CTA	<input type="checkbox"/>	SAFE	<input type="checkbox"/>	CMA
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SANBAG Contract No. **C07024-02**  
by and between  
**San Bernardino County Transportation Authority**  
and  
**Harris & Associates**  
For

**Construction Management Services for State Street/University Parkway Grade Separation**

FOR ACCOUNTING PURPOSES ONLY						
<input checked="" type="checkbox"/> Payable <input type="checkbox"/> Receivable	Vendor Contract # _____ Vendor ID _____	Retention: <input type="checkbox"/> Yes _____ % <input checked="" type="checkbox"/> No	<input type="checkbox"/> Original <input checked="" type="checkbox"/> Amendment			
Notes: Amendment #1 extended contract thru 6/30/10						
<b>Original Contract:</b> <span style="float: right;"><b>\$ 3,400,000</b></span>  <b>Contingency / Allowance Amount</b> <span style="float: right;"><b>\$ 340,000</b></span>		Previous Amendments <span style="float: right;"><b>\$ 0</b></span> Previous Amendments <span style="float: right;"><b>\$ 0</b></span> <b>Contingency / Allowance Total:</b> Current Amendment: <span style="float: right;"><b>\$ 0</b></span> Current Amendment Contingency / Allowance: <span style="float: right;"><b>\$ 0</b></span>				
<b>Contract TOTAL ▶</b>						<b>\$ 3,740,000</b>
Main Task/ Project	Level 1	Level 2	Cost Code/ Object	Grant ID/ Supplement	Funding Sources/ Fund Type (Measure I, STP, CMAQ, etc.)	Amounts for Contract Total or Current Amendment Amt
0871	650	000	52001	99006	Measure I	
Original Board Approved Contract Date:				12/6/06	Contract Start: 12/6/06	Contract End: 12/6/09
New Amend. Approval (Board) Date:				8/4/10	Amend. Start: 7/1/10	Amend. End: 11/30/10
Allocate the Total Contract Amount or Current Amendment amount between Approved Budget Authority in the current year and Future Fiscal Year(s) Unbudgeted Obligation.						
<b>Approved Budget Authority</b> ▶		Fiscal Year: _____ \$ _____		<b>Future Fiscal Year(s) – Unbudgeted Obligation ▶</b>		\$ _____
<input type="checkbox"/> Budget authority for this contract currently exists in Task No. _____ (C-Task may be used here.). <input type="checkbox"/> A budget amendment is required. A Budget Amendment Request is attached.						

CONTRACT MANAGEMENT	
<b>Check all applicable boxes:</b> <input type="checkbox"/> Intergovernmental <input checked="" type="checkbox"/> Private <input type="checkbox"/> Federal Funds <input type="checkbox"/> State/Local Funds <input type="checkbox"/> Disadvantaged Business Enterprise (DBE) <input type="checkbox"/> Underutilized DBE (UDBE)	

<b>Task Manager:</b> Garry Cohoe	<b>Contract Manager:</b> Sagar Pandey
 Task Manager Signature	 Contract Manager Signature
Date: 7/8/10	Date: 7/8/2010
 Chief Financial Officer Signature	Date: 7/21/10

**AMENDMENT NO. 2**  
**CONTRACT NO. C07024**  
**AGREEMENT BY AND BETWEEN**  
**SAN BERNARDINO COUNTY TRANSPORTATION AUTHORITY**  
**AND**  
**HARRIS & ASSOCIATES**  
**FOR**  
**CONSTRUCTION MANAGEMENT, MATERIALS TESTING, AND CONSTRUCTION**  
**SURVEYING SERVICES**  
**FOR**  
**STATE STREET/UNIVERSITY PARKWAY GRADE SEPARATION PROJECT**

This AMENDMENT No 2 to CONTRACT No. C07024 entered into this 4th day of August 2010 by the firm of Harris & Associates (hereafter called CONSULTANT) and the San Bernardino Associated Governments/San Bernardino County Transportation Authority (hereafter called AUTHORITY):

WITNESSETH,

WHEREAS, SANBAG, under SANBAG Contract C07024, has engaged the services of CONSULTANT to provide construction management services for State Street/University Parkway Grade Separation Project and,

WHEREAS, completion of Record of Survey documentation has been delayed for various reasons; the parties hereto desire to amend the aforesaid contract to extend the completion date; and,

NOW THEREFORE, the parties hereto do mutually agree to amend Contract C07024, as follows:

1. Article 2, sub-paragraph 2.1 shall be replaced by the following; The Period of Performance by CONSULTANT under this contract shall commence on December 6, 2006 and continue to November 30, 2010, or until otherwise terminated or cancelled as hereinafter directed, or unless extended by direction of SANBAG.
2. Except as amended by this Amendment, all other provisions of Contract C07024 remain in full force and effect.

IN WITNESS THEREOF, the authorized parties have below signed:

**San Bernardino County**  
**Transportation Authority**

By: \_\_\_\_\_  
Brad Mitzelfelt, President  
SANBAG Board of Directors

Date: \_\_\_\_\_

**HARRIS & ASSOCIATES**

By: \_\_\_\_\_  
Title: VICE PRESIDENT

Date: 7/26/10

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Jean Rene Basle  
SANBAG Counsel

Date: \_\_\_\_\_

## *Minute Action*

AGENDA ITEM: 14

**Date:** August 4, 2010

**Subject:** Cooperative Agreements with the California Department of Transportation (Caltrans) for the Right-of-Way work on Interstate 215 (I-215)

- Recommendation:\***
1. Approve Amendment No. 2 to Cooperative Agreement No. C06058 (Caltrans Agreement 08-1306) with Caltrans for Right-of-Way work on I-215 Segment 2 in the City of San Bernardino increasing the total amount by \$1,581,385 for a total not-to-exceed amount of \$25,410,595.00.
  2. Approve Amendment No. 2 to Cooperative Agreement No. A04-059 (Caltrans Agreement 08-1246) with Caltrans for Right-of-Way work on I-215 Segment 3 in the City of San Bernardino increasing the total amount by \$2,597,990 for a total not-to-exceed amount of \$28,674,865.00 and extending the duration of the agreement to December 31, 2010.

**Background:** This item amends existing cooperative agreements with Caltrans to reflect updated cost estimates and funding plans for I-215 right-of-way. Staff has been working with Caltrans District 8 to develop the most reasonable estimates at completion for the various phases of the right-of-way capital for the I-215 project. Based on the current estimates, it appears the overall cost for right-of-way capital is below the current total funding provided. Within the various project phases, some of the phases are estimated to be higher than the current approved funding therefore, adjustments to both the cooperative agreements and funding documents are required. The action requested on these two cooperative agreements would

*Approved*  
*Board of Directors*

*Date:* \_\_\_\_\_

*Moved:*

*Second:*

*In Favor:*

*Opposed:*

*Abstained:*

*Witnessed:* \_\_\_\_\_

<input type="checkbox"/>	COG	<input type="checkbox"/>	CTC	<input checked="" type="checkbox"/>	CTA	<input type="checkbox"/>	SAFE	<input type="checkbox"/>	CMA
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Check all that apply

BRD1008c-gc

Attachments: C06058-02, A04-059-02

allow proceeding with the funding adjustments by phases to match the estimated needs.

The SANBAG Board in May, 2008 approved the use of Measure I funding to cover some of the projected right-of-way capital overruns on the corridor at that time. At the Special January, 2010 Board meeting, approval was given to utilize some of the CMAQ and PNRs savings from the Segments 1 and 2 construction for the right-of-way funding on I-215 corridor. This allows the use some of the specified construction savings and applies it to right-of-way capital, reducing the required Measure I funding on right-of-way capital. The amendments to these cooperative agreements are consistent with that plan. CMAQ savings from Segments 1 and 2 construction will be applied to both Segments 2 and 3 right-of-way capital to address anticipated cost overruns. In addition, Segment 2 right-of-way capital needs will utilize anticipated CMAQ savings from Segment 1 right-of-way capital.

**Recommendation 1:**

The SANBAG Board approved a cooperative agreement with Caltrans in April, 2006 establishing the roles and responsibilities and funding for Right-of-Way activities required in order to construct the Segment 2 portion of the I-215 corridor in the City of San Bernardino. Presently, all Right-of-Way has been acquired for this segment; however, several parcels are still involved in eminent domain action.

The capital costs for right-of-way acquisition on this Segment are funded from State, Federal, and local sources. This cooperative agreement addresses parcels funded by Federal and local sources, specifically Congestion Mitigation and Air Quality (CMAQ) funds and Measure I funds. These parcel costs will be paid directly using Measure I funds with a subsequent reimbursement request of 88.53% of the cost from CMAQ funding. When the original cooperative agreement was executed, the cost estimate for these parcels was based on preliminary cost estimates. Now that acquisition on most of the parcels is complete and there is a reasonable estimate for remaining future costs, an updated cost estimate has been developed. This estimate indicates a shortfall of around \$1.5 million. As a result, the cost limit in the cooperative agreement will need to be raised. There is additional CMAQ funding available for these parcels from a savings on the I-215 Segment 1 parcels (approximately \$1 million in CMAQ and the Measure I match) and around \$0.4 million from CMAQ savings from I-215 Segments 1 and 2 construction.

Upon execution of this cooperative agreement amendment, a formal request for the funding changes can be submitted; therefore, timely execution of this agreement with the updated cost limit will allow for the funds to be available for reimbursement sooner. It is anticipated this adjustment should be adequate for completion of the right-of-way work in this segment.

**Recommendation 2:**

The SANBAG Board approved a cooperative agreement in May, 2004 and amended it in May, 2008 establishing the roles and responsibilities and funding for Right-of-Way activities required in order to construct the Segment 3 portion of the I-215 corridor in the City of San Bernardino. Presently, all Right-of-Way has been acquired for this segment. Similar to Segment 2, funding was identified in the original agreement to use CMAQ funding and a Measure I match for specific parcels in the segment. In addition, construction savings were applied to address increases in Segment 3 utilities in Amendment 1 to this agreement. Amendment 2 to the agreement presented now will allow the use of around \$2.2 million in CMAQ savings from Segments 1 and 2 construction and a Measure match of around \$300,000 to address a funding shortfall on the specific parcels in Segment 3 to be funded under this agreement. The agreement indicates a not to exceed limit for SANBAG of \$28,674,866 in CMAQ, PNRs, and Measure I funds with an additional \$3,549,039 in RIP funds being used for a total project cost of \$32,223,905.

**Financial Impact:** These cooperative agreement amendments are consistent with the fiscal year 10/11 budget. Funding for the agreements is provided by Project No. 83611000. The funding source for Recommendation 1 is Congestion Mitigation and Air Quality (CMAQ) funds and Measure I Valley Major Projects funds. The funding source for Recommendation 2 is CMAQ funds and Measure I Valley Major Projects funds.


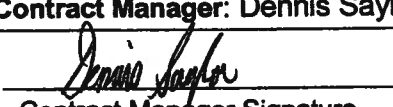


**Reviewed By:** This item was reviewed and unanimously recommend for approval by the Major Projects Committee on July 15, 2010. SANBAG Counsel has reviewed and approved these agreements as to form.

**Responsible Staff:** Garry Cohoe, Director of Project Delivery

SANBAG Contract No. C06058-02  
by and between San Bernardino Associated Governments and California Department of  
Transportation  
for Cooperative Agreement for I-215 Segment 2 Right of Way Work

FOR ACCOUNTING PURPOSES ONLY						
<input checked="" type="checkbox"/> Payable <input type="checkbox"/> Receivable	Vendor Contract # <u>08-1306 A/1</u> Vendor ID _____	Retention: <input type="checkbox"/> Yes _____ % <input checked="" type="checkbox"/> No	<input type="checkbox"/> Original <input checked="" type="checkbox"/> Amendment			
Notes:						
Original Contract:           \$ <u>23,829,210</u>  Contingency / Allowance Amount           \$ _____		Previous Amendments                           \$ <u>0</u> Previous Amendments                           \$ _____ Contingency / Allowance Total: Current Amendment:                           \$ <u>1,581,385</u> Current Amendment Contingency / Allowance:   \$ <u>0</u>				
Contingency Amount requires specific authorization by Task Manager prior to release.						
<b>Contract TOTAL ►</b>			<b>\$ <u>25,410,595.00</u></b>			
* Funding sources remain as stated on this document unless and until amended by proper authority. Funding sources are those which are ultimately responsible for the expenditure. ▼ Include funding allocation for the original contract or the amendment						
Main Task/ Project	Level 1	Level 2	Cost Code/ Object	Grant ID/ Supplement	Funding Sources/ Fund Type (Measure I, STP, CMAQ, etc.)	Amounts for Contract Total or Current Amndmnt Amt
<u>0836</u>	<u>640</u>	<u>000</u>	<u>53750</u>	<u>11207</u>	<u>CMAQ</u>	<u>\$ 1,400,000</u>
<u>0836</u>	<u>640</u>	<u>000</u>	<u>53750</u>	<u>99006</u>	<u>Measure I - Major Projects</u>	<u>\$ 181,385</u>
_____	_____	_____	_____	_____	_____	\$ _____
_____	_____	_____	_____	_____	_____	\$ _____
Original Board Approved Contract Date: <u>04/05/06</u>				Contract Start: <u>4/5/06</u>		Contract End: <u>6/30/10</u>
New Amend. Approval (Board) Date: <u>8/4/10</u>				Amend. Start: <u>8/4/10</u>		Amend. End: <u>12/31/13</u>
Allocate the Total Contract Amount or Current Amendment amount between Approved Budget Authority in the current year and Future Fiscal Year(s) Unbudgeted Obligation.						
Approved Budget Authority ►		Fiscal Year: <u>10/11</u> \$ <u>1,581,385</u>		Future Fiscal Year(s) – Unbudgeted Obligation ►		\$ _____
<input checked="" type="checkbox"/> Budget authority for this contract currently exists in Task No. <u>836</u> (C-Task may be used here.). <input type="checkbox"/> A budget amendment is required. A Budget Amendment Request is attached.						

CONTRACT MANAGEMENT	
Check all applicable boxes:	
<input checked="" type="checkbox"/> Intergovernmental	<input type="checkbox"/> Private
<input type="checkbox"/> Disadvantaged Business Enterprise (DBE)	<input type="checkbox"/> Federal Funds
	<input type="checkbox"/> State/Local Funds
	<input type="checkbox"/> Underutilized DBE (UDBE)

Task Manager: Garry Cohoe	Contract Manager: Dennis Saylor
 Task Manager Signature	 Contract Manager Signature
Date <u>7/13/12</u>  Chief Financial Officer Signature	Date <u>7/12/10</u>  Date

08-SBd-215-PM 7.6/8.9  
Add 2 HOV Lanes and  
Operational Improvements  
South of 9th Street OC to  
South of Massachusetts Avenue  
(Segment 2)  
In the City of San Bernardino  
EA 007162  
District Agreement No. 8-1306 A/2

## **AMENDMENT NO. 2 TO AGREEMENT**

This AMENDMENT NO. 2 to AGREEMENT, entered into effective on \_\_\_\_\_, 2010, is between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, referred to herein as "STATE," and the

SAN BERNARDINO ASSOCIATED  
GOVERNMENTS, a public entity, referred to  
herein as "SANBAG."

### **RECITALS**

1. The STATE and SANBAG hereto entered into Agreement No. 8-1306 on May 22, 2006, said Agreement contemplated the purchase of right of way for the widening of Interstate 215 (I-215) to provide for one (1) High Occupancy Vehicle (HOV) lane and one (1) mixed-flow lane in each direction and operational improvements including auxiliary lanes and braided ramps on I-215 in the City of San Bernardino from south of 9<sup>th</sup> Street overcrossing to south of Massachusetts Avenue (Segment 2), referred to herein as "PROJECT."
2. The STATE and SANBAG hereto entered into an Agreement No. 8-1306 A/1 on June 21, 2010, to extend the termination date to December 31, 2013.
3. The purpose of this Amendment 8-1306 A/2 is to increase SANBAG's Right of Way capital cost estimate from \$23,829,210 to \$25,410,595 as shown on new Exhibit A dated June 25, 2010, attached to and made a part of this Amendment and to update indemnity articles.

**IT IS THEREFORE MUTUALLY AGREED:**

1. Under RECITALS of Agreement No. 8-1306, Article 4 is hereby amended in its entirety to read as follows:

“4. SANBAG is willing to pay for right of way capital costs for PROJECT up to a maximum amount of \$25,410,595. The PROJECT cost estimate is shown on Exhibit A attached hereto and made a part of this Agreement.”

2. Under SECTION II of Agreement No. 8-1306, Article 1 is hereby amended in its entirety to read as follows:

“1. To pay one hundred percent (100%) of the total actual right of way acquisition cost for PROJECT, up to a maximum of \$25,410,595. If it becomes apparent that the total maximum cost for right of way for PROJECT will exceed the maximum amount programmed for expenditures, SANBAG shall work promptly and in cooperation with STATE to determine necessary additional costs and the source of the additional funds.”

3. Under SECTION III of Agreement No. 8-1306, new Article 9 is hereby added to read as follows:

“9 Invoices for STATE support costs include all direct and applicable indirect costs. Applicable indirect costs are determined by the type of funds being used to pay for support. State and federal funds are subject to the Program Functional Rate. Local funds (Measure money, developer fees, special assessments, etc.) are subject to the Program Functional Rate and the Administration Rate. STATE establishes the Program Functional Rate and the Administration Rate annually according to State and Federal regulations.”

4. Under SECTION III of Agreement No. 8-1306, Article 5 is hereby amended in its entirety to read as follows:

“5. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by SANBAG under or in connection with any work, authority or jurisdiction conferred upon SANBAG under this Agreement. It is understood and agreed that SANBAG shall fully defend, indemnify and save harmless STATE and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by SANBAG under this Agreement.

5. Under SECTION III of Agreement No. 8-1306, Article 6 is hereby amended in its entirety to read as follows:
  - “6. Neither SANBAG nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by STATE under or in connection with any work, authority or jurisdiction conferred upon STATE under this Agreement. It is understood and agreed that STATE shall fully defend, indemnify and save harmless SANBAG and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this Agreement.
6. The new EXHIBIT A, dated June 25, 2010 supersedes the original ATTACHMENT 1 of Agreement No. 8-1306 and any reference to ATTACHMENT 1 in the Agreement is deemed to reference EXHIBIT A.
7. All other terms and conditions of said Agreement No. 8-1306 shall remain in full force and effect.
8. This Amendment No. 2 to Agreement is hereby deemed to be a part of Agreement No. 8-1306.

SIGNATURES ON FOLLOWING PAGE:

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION

SAN BERNARDINO  
ASSOCIATED GOVERNMENTS

CINDY MCKIM  
Director

By: \_\_\_\_\_  
RAYMOND W. WOLFE, PhD  
District Director

By: \_\_\_\_\_  
BRAD MITZELFELT  
Board President

APPROVED AS TO FORM AND  
PROCEDURE:

Attest: \_\_\_\_\_  
VICKI WATSON  
Board Clerk

By: \_\_\_\_\_  
Attorney,  
Department of Transportation

CERTIFIED AS TO FUNDS:

APPROVED AS TO FORM AND  
PROCEDURE:

By: \_\_\_\_\_  
LISA PACHECO  
District Budget Manager

By: \_\_\_\_\_  
JEAN-RENE BASLE  
Counsel

CERTIFIED AS TO FINANCIAL  
TERMS AND POLICIES:

By: \_\_\_\_\_  
Accounting Administrator

**EXHIBIT "A"**

**R/W CAPITAL COST ESTIMATE**

Date: June 25, 2010

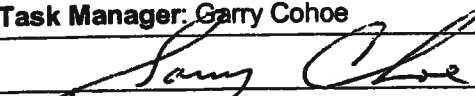



<b>AGENCY</b>	<b>CMAQ</b>	<b>MEASURE I Match Funds</b>	<b>TOTAL</b>
SANBAG	\$22,496,000	\$2,914,595	\$25,410,595
<b>TOTAL</b>	<b>\$22,496,000</b>	<b>\$2,914,595</b>	<b>\$25,410,595</b>

SANBAG Contract No. **A04059-02**  
by and between  
**San Bernardino County Transportation Authority**  
and  
**State of California, Department of Transportation**  
For

**Cooperative Agreement for I-215 Segment 3 Right of Way Work**

FOR ACCOUNTING PURPOSES ONLY						
<input checked="" type="checkbox"/> Payable <input type="checkbox"/> Receivable	Vendor Contract # <u>08-1246 A/2</u> Vendor ID _____	Retention: <input type="checkbox"/> Yes _____ % <input checked="" type="checkbox"/> No	<input type="checkbox"/> Original <input checked="" type="checkbox"/> Amendment			
Notes:						
Original Contract:		\$ <u>11,880,718</u>	Previous Amendments		\$ <u>14,196,158</u>	
			Previous Amendments		\$ <u>0</u>	
Contingency / Allowance Amount		\$ <u>0</u>	Contingency / Allowance Total:			
			Current Amendment:		\$ <u>2,597,990</u>	
			Current Amendment Contingency / Allowance:		\$ <u>0</u>	
<b>Contract TOTAL ►</b>					<b>\$ <u>28,674,866.00</u></b>	
Main Task/Project	Level 1	Level 2	Cost Code/Object	Grant ID/Supplement	Funding Sources/ Fund Type (Measure I, STP, CMAQ, etc.)	Amounts for Contract Total or Current Amndmnt Amt
<u>0836</u>	<u>640</u>	<u>000</u>	<u>53750</u>	<u>11205</u>	<u>CMAQ</u>	<u>\$2,300,000</u>
<u>0836</u>	<u>640</u>	<u>000</u>	<u>53750</u>	<u>99006</u>	<u>Measure I - Major Projects</u>	<u>\$297,990</u>
Original Board Approved Contract Date:				<u>5/5/04</u>	Contract Start: <u>5/5/04</u>	Contract End: <u>6/30/08</u>
New Amend. Approval (Board) Date:				<u>8/4/10</u>	Amend. Start: <u>8/4/10</u>	Amend. End: <u>12/31/12</u>
Allocate the Total Contract Amount or Current Amendment amount between Approved Budget Authority in the current year and Future Fiscal Year(s) Unbudgeted Obligation.						
Approved Budget Authority ►		Fiscal Year: <u>10/11</u>		Future Fiscal Year(s) - Unbudgeted Obligation ►		\$ _____
		<u>\$ 2,597,990</u>				
<input checked="" type="checkbox"/> Budget authority for this contract currently exists in Task No. <u>836</u> (C-Task may be used here.). <input type="checkbox"/> A budget amendment is required. A Budget Amendment Request is attached.						

CONTRACT MANAGEMENT	
Check all applicable boxes:	
<input checked="" type="checkbox"/> Intergovernmental <input type="checkbox"/> Disadvantaged Business Enterprise (DBE)	<input type="checkbox"/> Private <input type="checkbox"/> Underutilized DBE (UDBE)
<input type="checkbox"/> Federal Funds <input type="checkbox"/> State/Local Funds	

Task Manager: <u>Garry Cohoe</u>		Contract Manager: <u>Dennis Saylor</u>	
 Task Manager Signature		 Contract Manager Signature	
 Chief Financial Officer Signature		 Date	
Date <u>7/17/10</u>		Date <u>7/12/10</u>	

08-SBd-215-PM 4.1/6.7  
(KP 6.6/10.8)  
Widen for HOV lane and operational  
improvements and modify/replace  
interchanges from Orange Show Road to  
Rialto Avenue  
EA 007171  
District Agreement No. 08-1246 A/2

## **AMENDMENT NO. 2 TO AGREEMENT NO. 08-1246**

This AMENDMENT NO. 2 to AGREEMENT NO. 08-1246, entered into effective on \_\_\_\_\_, 2010, is between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, referred to herein as "STATE," and the

SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY, a public  
entity, referred to herein as "AUTHORITY."

### **RECITALS**

1. The STATE and AUTHORITY hereto entered into Agreement No.08-1246 (Document No. 015859) on May 5, 2004, defining the terms and conditions of a project to purchase the Right of Way for the widening of Interstate 215 (I-215) to provide for one High Occupancy Vehicle (HOV) lane in each direction and operational improvements consisting of modifying existing interchanges and modifying existing exit and entrance ramps on I-215 through the City of San Bernardino from Orange Show Road to Rialto Avenue in San Bernardino County, referred to herein as "PROJECT."
2. The STATE and AUTHORITY also entered into Agreement No. 08-1246 A/1 on June 10, 2008, to increase the total Right of Way capital costs from \$11,880,718 to \$29,625,915 and to extend the termination date from June 30, 2008 to December 31, 2010.
3. The purpose of this Amendment No.2 is to increase the Right of Way capital costs from \$29,625,915 to \$32,223,905 as shown on revised Exhibit A/1, dated June 29, 2010, attached to and made a part of this Amendment. It also has been determined that PROJECT Right of Way activities will not be completed prior to the termination date of said Agreement No. 08-1246 A/1.

**IT IS THEREFORE MUTUALLY AGREED:**

1. Under RECITALS of Agreement 08-1246 , Article 4 is hereby replaced in its entirety to read as follows:
  - “4. AUTHORITY is willing to pay for Right of Way capital costs for PROJECT up to a maximum amount of \$28,674,866, using a combination of Congestion Mitigation and Air Quality Improvement Program (CMAQ) funds, Projects of National and Regional Significance (PNRS) funds and Measure I funds more specifically laid out in Exhibit A/1 attached to and made a part of this Agreement. AUTHORITY agrees to contribute to STATE the amount of \$14,196,158 in PNRS Federal Local Subvention Funds for the Right of Way capital costs of the PROJECT as and when STATE requires those funds.”
2. Under SECTION II of Agreement No. 08-1246, Article 1 is hereby replaced in its entirety to read as follows:
  - “1. To pay for Right of Way capital costs for PROJECT up to a maximum amount of \$28,674,866, using a combination of CMAQ funds, PNRS funds and Measure I funds more specifically laid out in Exhibit A/1. STATE shall bill AUTHORITY directly for CMAQ obligations. AUTHORITY agrees to contribute to STATE the amount of \$14,196,158 in PNRS Federal Local Subvention Funds for the Right of Way capital costs of the PROJECT as and when STATE requires those funds.”
3. Under SECTION III of Agreement No. 08-1246, Article 8 is hereby replaced in its entirety to read as follows:
  - “8. “This Agreement shall terminate upon the satisfactory completion of all post Right of Way Certification obligations of AUTHORITY and STATE, or on December 31, 2012, whichever is earlier in time, except that the ownership, operation, maintenance, indemnification, environmental commitments, legal challenges, and claims articles shall remain in effect until terminated or modified, in writing, by mutual agreement. Should any post-Right of Way Certification-related or other claims arising out of PROJECT be asserted against one of the parties, the parties agree to extend the fixed termination date of this Agreement, until such time as the post Right of Way Certification-related claims are settled, dismissed or paid.”
4. Under SECTION III of Agreement No. 08-1246, Article 9 is added to to read as follows:
  - “9. Invoices for STATE support costs include all direct and applicable indirect costs. Applicable indirect costs are determined by the type of funds being used to pay for support. State and federal funds are subject to the Program Functional Rate. Local funds (Measure money, developer fees, special assessments, etc.) are subject to the Program Functional Rate and the Administration Rate. STATE establishes the Program Functional Rate and the Administration Rate annually according to State and Federal regulations.”

5. The revised Exhibit A/1, dated June 29, 2010, supersedes Exhibit A of Agreement No. 08-1246, and any reference to Exhibit A is deemed to reference Exhibit A/1.
6. Exhibits B and C in Agreement 08-1246 are hereby deleted in their entirety.
7. All other terms and conditions of said Agreement No. 08-1246 shall remain in full force and effect.
8. This Amendment No. 2 to Agreement is hereby deemed to be a part of Agreement No. 08-1246.

SIGNATURES ON FOLLOWING PAGE:

STATE OF CALIFORNIA  
DEPARTMENT OF TRANSPORTATION

SAN BERNARDINO COUNTY  
TRANSPORTATION AUTHORITY

CINDY MCKIM  
Director

By: \_\_\_\_\_  
BRAD MITZELFELT  
Board President

By: \_\_\_\_\_  
RAYMOND W. WOLFE, PhD  
District Director

Attest: \_\_\_\_\_  
VICKI WATSON  
Board Secretary

APPROVED AS TO FORM AND  
PROCEDURE:

APPROVED AS TO FORM AND  
PROCEDURE:

By: \_\_\_\_\_  
Attorney,  
Department of Transportation

By: \_\_\_\_\_  
JEAN-RENE BASLE  
Counsel

CERTIFIED AS TO FUNDS:

By: \_\_\_\_\_  
LISA PACHECO  
District Budget Manager

CERTIFIED AS TO FINANCIAL  
TERMS AND POLICIES:

By: \_\_\_\_\_  
Accounting Administrator

**EXHIBIT "A/1"**

June 29, 2010

<b>PHASE</b>	<b>AUTHORITY SHARE</b>	<b>FUND TYPE</b>	<b>AMOUNT</b>	<b>MATCHING FUND TYPE</b>	<b>AMOUNT</b>	<b>TOTAL PROJECT COST</b>
Right of Way Capital	100%	CMAQ	\$12,818,000	Measure I	\$1,660,708	\$14,478,708
	100%	PNRS	\$14,196,158	RIP	\$3,549,039	\$17,745,197
			\$27,014,158		\$5,209,747	\$32,223,905

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
 ■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

*Minute Action*

AGENDA ITEM: 15

**Date:** August 4, 2010

**Subject:** Etiwanda Pacific Electric Train Depot

- Recommendation:\***
1. Find that SANBAG-owned property (APN #0227-121-18), located at 7089 Etiwanda Avenue in the City of Rancho Cucamonga ("Property") is not required for SANBAG use in accordance with Section 25365 of the Government Code.
  2. Approve the purchase and sale agreement with the City of Rancho Cucamonga, for the sale of Property to the City of Rancho Cucamonga in the amount of \$105,500.
  3. Authorize and direct the Executive Director to execute deeds and such other documents as are necessary to complete the transaction contemplated in the Purchase and Sale Agreement.
  4. Approve Amendment No. 1 to Lease Agreement No. 04-048 with the City of Rancho Cucamonga, for land adjacent to property.

**Background:** In February 2004 the Board approved the Lease Agreement 04-048 with the City of Rancho Cucamonga for the use of the Etiwanda Station Property and the portion of the former Southern Pacific (SP) Baldwin Park Branch located within the City limits.

*Approved*  
*Board of Directors*

*Date:* \_\_\_\_\_

*Moved:* \_\_\_\_\_ *Second:* \_\_\_\_\_

*In Favor:* \_\_\_\_\_ *Opposed:* \_\_\_\_\_ *Abstained:* \_\_\_\_\_

*Witnessed:* \_\_\_\_\_

<input type="checkbox"/>	COG	<input checked="" type="checkbox"/>	CTC	<input checked="" type="checkbox"/>	CTA	<input type="checkbox"/>	SAFE	<input type="checkbox"/>	CMA
--------------------------	-----	-------------------------------------	-----	-------------------------------------	-----	--------------------------	------	--------------------------	-----

Check all that apply

BRD1008b-rpg

Attachments:

A04048-1

C11042-maa

In August 2007, the Board authorized staff to begin the process of disposal of the Etiwanda Train Depot site, as the City expressed an interest in acquiring the site. SANBAG has not been using the property since its acquisition of the Southern Pacific (SP) Baldwin Park Branch in 1992 and the property has been under lease to the City of Rancho Cucamonga since 2004. Therefore, staff recommends that in accordance with Section 25365 of the Government Code that the Board find that the property is not required for SANBAG use.

The City of Rancho Cucamonga desires to purchase the property from SANBAG to house a museum acknowledging the importance of the Pacific Electric rail system in the development of Southern California and to provide trail head amenities for the Pacific Electric Trail. The sale agreement includes fee simple title to a portion of the historic Etiwanda Railway Station structure, the adjacent historic weigh platform and related equipment, along with approximately 0.55 acres of the total of approximately 4.0 acres of non-operating real property and improvements, along with an easement for ingress and egress of approximately 0.10 acres. The purchase price for the property is \$105,500 payable in cash within 14 days following execution of the agreement. The purchase price is comprised solely of the land value of the Property.

Amendment No. 1 to Lease Agreement No. 04-048 with the City of Rancho Cucamonga has been prepared to take into consideration the sale of the Etiwanda Station, and the transfer of an easement area to the City, to extend the term of the lease, add a right of first refusal to allow the City to purchase the premises, and to make other agreed upon modifications to the Lease.

**Financial Impact:** This item is consistent with the adopted budget. Work involving the management of Agency-owned railroad property is funded under Task 35211000. The funding source is LTF-Planning.

**Reviewed By:** This item was reviewed by the Commuter Rail and Transit Committee on July 22, 2010 and unanimously recommended for approval. Both the sales agreement and the Amendment No. 1 to Lease Agreement No. 04-048 have been reviewed by Counsel.

**Responsible Staff:** Mitch Alderman, Director of Transit and Rail Programs

**AMENDMENT No. 1**  
**to**  
**LEASE AGREEMENT No. 04-048**  
**between**  
**SAN BERNARDINO ASSOCIATED GOVERNMENTS**  
**and**  
**CITY OF RANCHO CUCAMONGA**  
**for the**  
**ETIWANDA RAILWAY STATION**  
**and**  
**RAILWAY RIGHT OF WAY**

WHEREAS, the SAN BERNARDINO ASSOCIATED GOVERNMENTS ("SANBAG") as landlord, and the CITY OF RANCHO CUCAMONGA ("CITY") as tenant, have previously entered into Lease Agreement No. 04-048, (the "Lease") wherein SANBAG agreed to lease to the CITY the historic Etiwanda Railway Station structure, along with approximately 4.0 acres of non-operating real property and other improvements, located at 7089 Etiwanda Avenue, Rancho Cucamonga, and referred to in the Lease as the "Station Area" as more particularly described in Exhibit "A", Station Area, of the Lease, and the entire SANBAG right-of-way of the former Southern Pacific Baldwin Park Branch located in the CITY and referred to in the Lease as the "Railway Right-of-Way" as more particularly described in Exhibit "B", Railway Right-of-Way, of the Lease. The Station Area and the Railway Right-of-Way are jointly and severally referred to in the Lease as the "Premises" and,

WHEREAS, the CITY desires to purchase and SANBAG desires to sell to the CITY under a separate agreement, referred to hereinafter as the "Station Transfer Agreement", the historic Etiwanda Railway Station structure, the adjacent historic weigh platform and related equipment, along with approximately 0.55 acres of the total approximately 4.0 acres of non-operating real property and other improvements, located at 7089 Etiwanda Avenue, Rancho Cucamonga and referred to hereinafter as the "Station Transfer Area", as more particularly described in Exhibit "A", Station Transfer Area, of the Station Transfer Agreement; and,

WHEREAS, the CITY desires to purchase and SANBAG desires to sell to the CITY, as part of the separate "Station Transfer Agreement", an easement for ingress and egress from Etiwanda Avenue to the Station Transfer Area over approximately 0.10 acres of the remaining Station Area, as more particularly described in Exhibit "B", Station Transfer Easement Area, of the Station Transfer Agreement

WHEREAS, SANBAG and the CITY now desire to amend Lease Agreement No. 04-048 to take into consideration the sale of the Station Transfer Area and the Station Transfer Easement Area to the CITY, to extend the term of the Lease, add a right of first refusal to allow the City to purchase the Premises, and to make other agreed upon modifications to the Lease.

NOW, THEREFORE, in consideration of mutual covenants and conditions, the parties hereto agree the Lease Agreement No. 04-048, is amended as follows:

1. CHANGE that portion of the first sentence of the existing Paragraph 2, **PREMISES LEASED** which currently reads:

“...CITY leases from SANBAG the historic Etiwanda Railway Station structure, along with approximately 4 acres of non-operating real property and...”

to read as follows:

“...CITY leases from SANBAG approximately 3.45 acres of non-operating real property and...”

2. CHANGE that portion of the first sentence of the existing Sub-Paragraph 2a, of Paragraph 2, **PREMISES LEASED** which currently reads:

“...to use any portion of the Station Area (outside of the historic Etiwanda Railway Station structure) for the purposes of a transit station...”

to read as follows:

“...to use any portion of the Station Area (outside of the Station Transfer Area) for the purposes of a transit station...”

3. DELETE the existing Exhibit "A", Station Area, and REPLACE with the attached as a new Exhibit "A", Station Area.

4. DELETE the existing Paragraph 3, **TERM**, and REPLACE with the following as a new Paragraph 3, **TERM**:

3. **TERM:**

a. This Lease shall be effective and commence on \_\_\_\_\_, the approval date of this Amendment (“effective date”) and shall remain in effect for a term of twenty (20) years thereafter (“initial term”). Provided the Lease has not been previously terminated, each year upon the anniversary of the effective date, a year shall automatically be added to the initial term of this Lease, unless either party serves the other party with a Notice of Non-Renewal at least ninety (90) days prior to the end of the then existing term. Additionally, either party may terminate this Lease at anytime during the initial term or thereafter with eighteen (18) months prior notice.

b. Upon any termination by the CITY, CITY shall, at its sole cost, remove all Improvements (as defined in Paragraph 11, ALTERATIONS) installed by, on behalf of or under the authority of the CITY within the entire Premises and restore the entire Premises to its original condition.

1. Provided, however, upon any such termination by CITY, SANBAG, at no cost to SANBAG, may require the CITY to leave in place any such Improvements SANBAG desires to retain.

c. Upon any termination by SANBAG, CITY shall, at its sole cost, remove all Improvements installed by, on behalf of or under the authority of the CITY within the entire Premises and restore the entire Premises to its original condition.

1. Provided however, upon any such termination by SANBAG, SANBAG, at no cost to SANBAG, may require the CITY to leave in place any such Improvements SANBAG desires to retain.

2. Further provided, upon any such termination, SANBAG shall, (if CITY has met the requirements of Paragraph 11, ALTERATIONS) promptly pay to CITY any unamortized construction cost of all SANBAG authorized CITY Improvements installed by, on behalf of or under the authority of the CITY within the entire Premises (whether such Improvements are to be removed or retained)."

5. CHANGE that portion of the first sentence of the existing Paragraph 8, HEALTH, SAFETY AND FIRE CODE REQUIREMENTS, which currently reads:

"Prior to any use or occupancy of historic Etiwanda Railway Station structure or any other structure on the Premises,...",

to read as follows:

"Prior to any use or occupancy of any structure on the Premises,..."

6. ADD the following sentence to the end of the existing Paragraph 8, HEALTH, SAFETY AND FIRE CODE REQUIREMENTS:

"Additionally, CITY, at its sole expense, shall comply with all federal, state and local laws, orders, rules or regulations concerning air quality, water quality and/or water runoff from, on, over or under the Premises."

7. CHANGE that portion of the first sentence of the existing Sub-Paragraph 10a(1) of Paragraph 10, SECURITY AND MAINTENANCE which currently reads:

"The structural parts of the historic Etiwanda Railway Station structure and other improvements, ...",

to read as follows:

“The structural parts of any structure and other improvements, ...”.

8. CHANGE that portion of the first sentence of the existing Sub-Paragraph 10a(3) of Paragraph 10, SECURITY AND MAINTENANCE which currently reads:

“Window frames, gutters, and downspouts on the historic Etiwanda Railway Station structure and ...”,

to read as follows:

“Window frames, gutters, and downspouts on any structure and ...”.

9. DELETE the fourth sentence of the existing Paragraph 11, ALTERATIONS which currently reads:

“Except for the historic Etiwanda Railway Station structure, SANBAG hereby authorizes CITY to maintain, rehabilitate, reconstruct and/or demolish any other structure on the Station Area without SANBAG’s consent.”,

and REPLACE it with the following sentences:

“Concurrent with seeking or after obtaining SANBAG’s consent as required above to make any structural or exterior improvements or alterations (“Improvements”) to the Premises, including but not limited to constructing right-of-way or boundary walls, buildings, or any other structure, the CITY shall provide SANBAG’s Director of Rail and Transit Programs all architectural and engineering designs for the project for the Director’s review and approval. If the Director does not provide comments or approve the designs within sixty (60) days of the Director’s receipt of complete designs, the designs will be deemed approved as submitted. CITY shall promptly notify SANBAG of the substantial completion of any Improvement, and shall, within ninety (90) days after the substantial completion of any such Improvement, provide SANBAG receipts, invoices and other billing and/or accounting information necessary to verify the cost of the Improvement. For the purposes of this lease, “substantial completion” shall mean that the Improvement can be used for its intended purposes and, if necessary, has been certified for occupancy by the entity that issued the building permits, notwithstanding that minor corrections and/or additions remain to be completed, it being understood that CITY shall promptly complete said corrections and/or additions. The failure of CITY to timely submit documentation to verify the cost of any Improvement shall waive CITY’s right to be reimbursed for the unamortized portion of such Improvement’s cost as provided in Paragraph 3, TERM, subparagraph 3c2, regarding a termination by SANBAG. The cost of any Improvement made by CITY pursuant to this paragraph shall be amortized over five (5) years commencing on the substantial completion of the Improvement.”

10 ADD Paragraph 45, CITY'S RIGHT OF FIRST REFUSAL, which shall read as follows:

45. CITY'S RIGHT OF FIRST REFUSAL: In the event that SANBAG desires to sell any part or all of the Station Area, SANBAG agrees to give CITY notice of SANBAG's desire to sell ("Offer Notice") and gives the CITY the right of first refusal to purchase that part or all of the Station Area for CITY's use at the appraised Fair Market Value of the part or all of the Station Area for sale. The Fair Market Value shall be established pursuant to the procedure set forth in Exhibit "C", Property Appraisal Procedure.

a. CITY shall have forty-five (45) calendar days from receipt of SANBAG's Offer Notice to respond and agree to purchase the entire part or all of the Station Area offered for sale. SANBAG acknowledges that the purchase of either part or all of the Station Area must be approved by the City Council or the Agency Board.

b. If CITY timely responds to the Offer Notice and agrees to purchase the entire part or all of the Station Area offered for sale, SANBAG, as SELLER, shall promptly commence and diligently pursue the appraisal procedure in Exhibit "C", Property Appraisal Procedure. Within thirty (30) calendar days of establishing the Fair Market Value of the entire part or all of the Station Area offered for sale, CITY and SANBAG agree to promptly open an escrow to complete the sale and agree that the escrow must close within thirty (30) calendar days or the escrow and sale are automatically cancelled, without the need for any notice.

11. All other provisions and terms of the Lease Agreement No. 04-048 shall remain the same and are hereby incorporated by reference.

16. This amendment shall be effective when approved by both parties and after the transfers under the Station Transfer Agreement have recorded.

**SAN BERNARDINO ASSOCIATED  
GOVERNMENTS**

By: \_\_\_\_\_  
Brad Mitzelfelt  
President

Date: \_\_\_\_\_

Approved as to Legal Form:

By: \_\_\_\_\_  
Jean-Rene Basle  
SANBAG Counsel

**CITY OF RANCHO CUCAMONGA**

By: \_\_\_\_\_  
Donald Kurth  
Mayor

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
City Attorney

**EXHIBIT "A"**

**Station Area**

**See attached Tentative Parcel Map No. 19247**

## EXHIBIT "C"

### Property Appraisal Procedure

**Property Appraisal Procedure.** In the event the City exercises its Right of First Refusal to purchase all or part of the Station Area ("Property") under either Paragraph 45 or 46, the Fair Market Value of the Property to be purchased shall be established by appraisal(s) in accordance with the terms, conditions and procedure set forth in this Exhibit. The term "Fair Market Value" of the property is the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity in so doing, nor obliged to sell, and a buyer, being ready and willing and able to buy under no particular necessity for so doing, each dealing with the other with full knowledge of all uses and purposes for which the property is reasonably adaptable and available. (California Code of Civil Procedure § 1263.320)

1. **Appraisal Procedure.** Unless otherwise agreed by the parties, the appraisal(s) shall be made by a senior designated member of a nationally recognized professional appraisal association that examines its designated members. The association shall be a member of the Appraisal Foundation (Institute?) and subscribe to the Uniform Standards of Professional Appraisal Practice. The appraiser shall also be certified under California law. The appraiser may also be an employee of the appraising party provided that the appraiser meets the above criteria. In accomplishing the appraisal and determining Fair Market Value for the Property, the appraiser shall:

a. Use a valuation date ("Valuation Date") which is the same as the date the SELLER's Offer Notice to the BUYER that the SELLER was willing to sell the Property;

b. Apply appropriate approaches to valuation which shall include at a minimum, Comparable Sales.

c. Determine the Fair Market Value as of the Valuation Date.

2. **SELLER Notification.** Once the SELLER has completed its appraisal to establish the Fair Market Value of the Property, SELLER shall promptly notify BUYER of the Fair Market Value of the Property. BUYER's failure to provide any of the notices or information set forth below in a timely manner shall waive BUYER's rights under Section 3. BUYER's Right to Object and Appraise the Property and the purchase price of the Property shall be the SELLER's appraised Fair Market Value.. All time limits concerning BUYER's obligations pursuant to this paragraph shall be strictly construed.

### 3. BUYER's Right to Object and Appraise the Property.

(a) **Notice of Objection.** In the event BUYER does not agree with the SELLER's Fair Market Value established in accordance with the appraisal procedure set forth above, then BUYER shall notify SELLER of BUYER's disagreement within thirty (30) calendar days of BUYER's receipt of SELLER's notice to BUYER setting the Fair Market Value. Concurrently with BUYER's notice of objection to SELLER, BUYER shall provide SELLER with BUYER's proposal with respect to the Fair Market Value for the Property. Upon SELLER's receipt of BUYER's notice and proposal for the Fair Market Value, SELLER and BUYER shall meet and attempt to agree on the Fair Market Value. BUYER's failure to timely notify SELLER of BUYER's disagreement with the Fair Market Value or failure to provide SELLER with an alternative proposal for the Fair Market Value, shall waive BUYER's rights to appraise the Property and elect binding arbitration.

(b) **BUYER's Appraisal.** If within thirty (30) days of SELLER's receipt of BUYER's notification and proposal with respect to Fair Market Value, SELLER and BUYER have not reached an agreement for the Fair Market Value, then BUYER shall have the right, at BUYER's sole cost, to conduct its own appraisal of the Property to determine the Fair Market Value ("BUYER's Appraisal"). BUYER shall complete its appraisal and deliver a complete copy of the appraisal to SELLER, within one hundred and twenty (120) calendar days after BUYER's receipt of SELLER's notice to BUYER establishing the Fair Market Value. Failure of BUYER to timely complete and deliver its appraisal to SELLER shall waive BUYER's rights to appraise the Property and elect binding arbitration. Within ten (10) days of SELLER's receipt of a complete copy of BUYER's appraisal, SELLER shall deliver a complete copy of its appraisal to BUYER, if SELLER has not already done so. SELLER may, but SELLER shall not be obligated to, provide BUYER with a copy of or access to its appraisal, prior to SELLER's receipt of a complete copy of the BUYER's Appraisal. Within the thirty (30) days following SELLER's receipt of BUYER's Appraisal, SELLER and BUYER shall meet and attempt to agree on the Fair Market Value.

4. **BUYER's Right to Elect Arbitration.** If within thirty (30) days of SELLER's receipt of a complete copy of BUYER's appraisal, BUYER and SELLER have not reached agreement with respect to Fair Market Value, BUYER shall (after the thirty (30) days have passed) have the right to elect binding arbitration on the issue of Fair Market Value by giving SELLER notice of its election to arbitrate within sixty (60) days following SELLER's receipt of a complete copy of BUYER's appraisal. Failure of BUYER to timely so notify SELLER of BUYER's election to arbitrate shall waive BUYER's right to arbitration. The arbitration shall be conducted in accordance with the following procedures:

a. **Selection of Arbitrator.** Within thirty (30) days of SELLER's receipt of BUYER's notice of election of arbitration, the appraiser who prepared SELLER's appraisal and the appraiser who prepared BUYER's appraisal shall select an arbitrator to arbitrate the issue of Fair Market Value. The arbitrator shall be an appraiser familiar with properties in San Bernardino County and specifically railroad properties, and who meets the qualifications prescribed herein. Further, the arbitrator must: (i) not be currently employed by

either party; (ii) be willing to perform the binding arbitration as set forth herein; and (iii) charge fees which are reasonable and customary for appraisers in San Bernardino County. As soon as the arbitrator is selected, the appraisers shall provide SELLER and BUYER with the name, address, and estimated fee to be charged by the arbitrator, in writing. If the two appraisers are unable to agree on the selection of an arbitrator, the arbitrator shall be selected by the president of the Appraisal Foundation.

**b. Submissions to the Arbitrator.**

(1) BUYER shall, within ten (10) days of its receipt of the notice of appointment of the arbitrator, pay the arbitrator's estimated fee and deliver to the arbitrator an exact duplicate of the complete appraisal the BUYER previously supplied to SELLER. BUYER shall also, within five (5) days of complying with the above, notify SELLER of its compliance. Failure of BUYER to timely pay the arbitrator's estimated charge, provide its appraisal to the arbitrator, and notify SELLER of the same, shall constitute a waiver of BUYER's right to proceed with arbitration.

(2) SELLER shall, within thirty (30) days of its receipt of BUYER's notice that the arbitrator's estimated fee has been paid and BUYER's appraisal has been delivered to the arbitrator, deliver to the arbitrator an exact duplicate of the complete appraisal the SELLER previously supplied to BUYER. Failure of SELLER to timely provide its appraisal to the arbitrator shall constitute a waiver of SELLER's right to have the arbitrator consider its appraisal and the arbitrator shall select the BUYER's appraisal.

(3) The parties shall not add to, delete or in any way amend their own appraisal after they have given each other complete copies thereof. Further, neither party shall make any comment on, rebut, or supply any information or other evidence about the other party's appraisal to the arbitrator.

**c. Arbitration Procedure.** The arbitrator shall review both appraisals and select the one which in the arbitrator's professional opinion should be used to set the Fair Market Value. In making the selection, the arbitrator shall act within the powers and limitations set forth below:

(i) The arbitrator may, but is not required to, make an on-site inspection of the Property and its environs, subject to subparagraph (ii) below;

(ii) The arbitrator shall not have the power to question either party, their employees, or any third persons concerning the Property, nor to receive and/or demand any information or other evidence from either party, their employees or any third persons beyond the respective appraisals and a copy of this Lease, except as required to ascertain the location of the Property if an on-site inspection is made under subparagraph (i) above;

(iii) The arbitrator shall not make an appraisal of the Property;

(iv) The arbitrator shall select one of the parties' appraisals and may not make any other decision, recommendation or modifications;

(v) The arbitrator shall notify both parties of his selection within thirty (30) days of receiving both appraisals (the "Arbitrator's Decision"). The Arbitrator's Decision shall be in writing and shall state only that appraisals were reviewed, an on-site inspection was or was not made, and which appraisal should be used to set the Fair Market Value. The arbitrator shall not give any reason(s) for the Arbitrator's Decision.

**d. Procedure Based on Arbitrator's Decision.**

(1) In the event the SELLER's appraisal is selected, the BUYER shall pay the Fair Market Value established by the Property appraisal performed by SELLER. SELLER and BUYER shall not be reimbursed for any costs associated with establishing the Fair Market Value and BUYER shall pay all of the arbitrator's fees and costs.

(2) In the event BUYER's appraisal is selected, the Fair Market Value shall be in accordance with the BUYER's Appraisal. Neither SELLER nor BUYER shall be reimbursed for the cost of their appraisals or other costs associated with establishing the Fair Market Value, but SELLER shall reimburse BUYER for its payment of the estimated arbitrator's fee and pay any arbitrator's fee if in excess of the estimated charge.

5. It is the intent of the parties that the appraisal and arbitration process set forth above shall be the exclusive remedy available to BUYER to challenge the Fair Market Value established for purchase of the Property and shall be binding on the parties unless vacated as provided for by Code of Civil Procedure Section 1285 et seq. Further, the arbitration process set forth above and arbitration in general is not to be used to resolve any other issue under this Lease, beyond the determination of Fair Market Value for the Property.

CONTRACT No. C11042

**AGREEMENT FOR PURCHASE AND SALE OF STATION TRANSFER AREA  
AND ESCROW INSTRUCTIONS**

Chicago Title Company  
560 E. Hospitality Lane  
San Bernardino, CA 92408

**DRAFT**

Attention: Dawn Chapparo

Re: Escrow No.: \_\_\_\_\_

THIS AGREEMENT FOR PURCHASE AND SALE OF STATION TRANSFER AREA AND ESCROW INSTRUCTIONS (this "Agreement") dated as of \_\_\_\_\_ 2010, is entered into by and between the SAN BERNARDINO ASSOCIATED GOVERNMENTS ("SANBAG") a joint powers agency, a public body, corporate and politic, and the CITY OF RANCHO CUCAMONGA, a public body, corporate and politic ("CITY"), upon the following terms and conditions:

1. SALE AND PURCHASE PRICE.

1.1 Sale and Purchase. SANBAG agrees to sell to CITY and CITY agrees to purchase from SANBAG good and marketable fee simple title to a portion of the historic Etiwanda Railway Station structure, the adjacent historic weigh platform and related equipment, along with approximately 0.5 ~~(to be confirmed with Dan Guerra and Rex)~~ acres of the total of approximately 4 acres ~~(must be verified by Dan and Rex)~~ of non-operating real property and improvements, located at 7089 Etiwanda Avenue in the City of Rancho Cucamonga, California, referred to hereinafter as the "Station Transfer Area" along with an easement for ingress and egress of approximately \_\_\_\_ acres ~~(Dan and Rex must verify but we confirmed that it runs along the perimeter of the Station Transfer Area)~~ referred to hereinafter as the "Station Transfer Easement Area", and more particularly described on Exhibits "A" and "B" attached hereto, together with all easements, privileges, permits, licenses, entitlements, and other rights appurtenant thereto, and all buildings, fixtures, equipment, structures, parking areas, landscaping, appurtenances and other improvements constructed or situated on or within the Station Transfer Area for the price and upon all of the terms and conditions set forth herein. The Station Transfer Area and the Station Transfer Easement Area hereinafter referred to collectively as "Property". CITY is purchasing the Property for a public purpose, namely for the rehabilitation and reconstruction of the historic Etiwanda Railway Station structure, the adjacent historic weigh platform and related equipment and the exiting rail spur, and related purposes, and all uses necessary and convenient thereto.

1.2 Purchase Price. The purchase price ("Purchase Price") for the Property described above shall be One Hundred Five Thousand Five Hundred Dollars (\$105,500) payable in cash. The purchase price is comprised solely of the land value of the Property. Within fourteen (14) days of the Escrow Opening Date, the cash payment of the Purchase Price shall be deposited by CITY into Escrow in the form of a cashier's check, wire transfer, or other form acceptable to the Escrow Holder.

1.3 No Relocation Assistance. SANBAG hereby acknowledges and agrees that the Property is not occupied by a third party, and that the purchase and sale of the Property is being made in the course of voluntary negotiations between SANBAG and CITY. CITY shall have no further obligation to SANBAG under the State of California Eminent Domain Law or under the Relocation Assistance and Real Property Acquisition statutes and guidelines, including but not limited to California Government Code Section 7260 et seq. and Section 6000 et seq. of Title 25 of the California Code of Regulations, and the SANBAG hereby waives any such assistance or benefits if applicable. SANBAG hereby further waives any and all claims it may have now or in the future for compensation for property or for loss of goodwill under California Code of Civil Procedure Section 1263.510 et seq. or any other applicable law.

## 2. TITLE.

2.1 General. Fee simple title to the Station Transfer Area shall be conveyed by Grant Deed and the Station Transfer Easement Area shall be conveyed by Easement Deed and both shall be evidenced by a CLTA Standard Coverage Form of Owner's Policy of Title Insurance (or an ALTA Extended Coverage Form Policy if CITY elects such coverage as provided in Paragraph 2.3 hereof) (Title Policy"), the cost of either of which shall be borne by CITY, issued by Chicago Title Company, 560 East Hospitality Lane, San Bernardino, California 91730, (909) 384-7811, Attention: Dawn Chapparo, ("Title Company"), with liability in the full amount of the Purchase Price, insuring title to the Property as vested in CITY, free and clear of all liens and encumbrances and other matters affecting title to the Property, except:

### 2.1.1 Non-delinquent real property taxes

2.2 Acts After Date of Agreement. During the period from the date of this Agreement through the close of escrow, SANBAG shall not record, or file for record or permit to be recorded or filed for record any document or instrument which will affect the title to or use of the Property without the prior written consent of the CITY, which consent shall not be unreasonably withheld.

2.3 Option for ALTA Coverage. CITY, at its cost, shall have the option of obtaining an ALTA Extended Coverage Form Policy of Title Insurance or a CLTA Standard Coverage Form Owners Policy of Title Insurance. In such event, CITY shall, at its expense, procure the ALTA Extended Coverage Survey (the "Survey"); provided, that, SANBAG shall provide to CITY, at no cost to CITY and within five (5) days after execution of this Agreement, a copy of SANBAG's most recent survey, if any, prepared with respect to the Property. The cost of either the CLTA Standard Coverage Form Owners Policy of Title Insurance or the ALTA Extended Coverage Form Policy of Title Insurance shall be borne by CITY.

## 3. ESCROW.

3.1 Agreement to Constitute Escrow Instructions. This Agreement shall constitute escrow instructions and a copy hereof shall be deposited with the Escrow Holder for this purpose.

3.2 The escrow shall be opened with Chicago Title Company, 580 East Hospitality Lane, San Bernardino, California 91730, (909) 384-7811, Attention: Dawn Chapparo, ("Escrow Holder"), within five (5) business days after the execution of this Agreement by CITY and SANBAG by depositing an executed copy or executed counterparts of this Agreement with Escrow Holder. This document shall be considered as the escrow instructions between the parties, with such further instructions as Escrow Holder requires in order to clarify the duties and responsibilities of Escrow Holder. If Escrow Holder shall require further escrow instructions, Escrow Holder shall promptly prepare such escrow instructions on its usual form for the purchase and sale of the Property upon the terms and provisions hereof. Provided such further escrow instructions are consistent with this Agreement, they shall be promptly signed by CITY and the SANBAG Executive Director within five (5) business days after delivery thereof to each party. The further escrow instructions shall incorporate each and every term of this Agreement and shall provide that in the event of any conflict between the terms and conditions of this Agreement and such further escrow instructions, the terms and conditions of this Agreement shall control. Escrow Holder shall not be held liable for the sufficiency or correctness as to form, execution or validity of any instruments deposited in this escrow (other than those documents prepared by Escrow Holder), or as to identity, authority or rights of any person executing the same, and Escrow Holder's duties hereunder shall be limited to the safekeeping of such money, instruments or other documents received by Escrow Holder and for the disposition or return of same in accordance with the instructions herein. The parties hereto agree jointly and severally to pay on demand, as well as to indemnify and hold Escrow Holder harmless from and against, all costs, damages, judgments, reasonable attorney's fees, expenses and liabilities of any kind or nature which Escrow Holder may incur or sustain in good faith in connection with or arising out of this escrow which are not due to Escrow Holder's negligence or willful misconduct.

3.3 Opening of Escrow. Escrow shall be deemed open on the date of delivery to the Escrow Holder of a fully executed copy or executed counterparts of this Agreement ("Escrow Opening Date").

3.4 Close of Escrow. Provided all of SANBAG's and CITY's obligations to be performed on or before close of escrow have been performed and all the conditions to the close of escrow set forth in this Agreement have been satisfied, escrow shall close no later than sixty (60) days from the opening of Escrow ("Closing Date"). All risk of loss or damage with respect to the Property shall pass from SANBAG to CITY at the close of escrow. Possession of the Property shall be delivered to CITY upon the close of escrow. Notwithstanding anything in this Agreement to the contrary, escrow shall be deemed automatically terminated if it has not otherwise closed by \_\_\_\_\_, regardless of cause or fault.

3.5 CITY Required to Deliver. On or before the close of escrow, CITY shall deposit into escrow the following (properly executed and acknowledged, if applicable):

3.5.1 The Purchase Price (as described in Paragraph 1.2 above; and

3.5.2 All other documents contemplated by this Agreement and required by Escrow Holder to be deposited by CITY to carry out this escrow, including letters required for SANBAG's tax purposes.

3.6 SANBAG Required to Deliver. Before the close of escrow, SANBAG shall deposit into escrow the following (properly executed and acknowledged, if applicable):

- 3.6.1 A Grant Deed conveying the Station Transfer Area to CITY;
- 3.6.2 An Easement Deed conveying the Station Transfer Easement Area to CITY; and
- 3.6.3 Any other documents contemplated by this Agreement or required by Escrow Holder or the Title Company to be deposited by SANBAG to carry out this escrow.

3.7 Conditions to the Close of Escrow. Escrow shall not close unless and until both parties have deposited with Escrow Holder all sums and documents required to be deposited as provided in this Agreement. The failure of a party to timely deposit any such sums and/or documents shall constitute a default by such party. Furthermore, escrow shall not close unless SANBAG shall be able to deliver possession of the Property to CITY free and clear of all tenants, leases and/or agreements. SANBAG agrees to indemnify, protect, hold harmless, and defend CITY and its employees, agents, representatives, council members, attorneys, successors, and assigns from and against any and all claims raised after closing by tenants raising or seeking any rights to relocation assistance or benefits based on their tenancy on the Property prior to the sale hereunder. In addition to the closing conditions set forth above, CITY's obligation to proceed with the transaction contemplated by this Agreement is subject to the satisfaction, not later than the date that is thirty (30) days after the Escrow Opening Date ("Contingency Date"), of all of the following conditions precedent, which are for CITY's benefit and may be waived only by CITY:

3.7.1 SANBAG's representations, warranties, and covenants set forth in this Agreement shall be true and correct as of the Contingency Date, and continue to be true and correct as of the Closing Date;

3.7.2 As of the Closing Date, there shall have been no material adverse changes in the physical condition of the Property, as described in Paragraph 6 or otherwise;

3.7.3 Verification by CITY that SANBAG is the owner of record of the Property and that there are no other owners of record of the Property as of the Closing Date;

3.7.4 Title Company shall have issued or shall have committed to issue the Title Policy to CITY, for the amount of the Purchase Price showing fee title to the Property to be vested in CITY, subject only to such conditions, covenants, restrictions, and utility easements of record as are approved by CITY in its sole and absolute discretion prior to the Contingency Date; and

Neither CITY nor SANBAG shall act or fail to act for the purpose of permitting or causing any closing condition to fail. Waiver of any condition to close of escrow shall not relieve any party for liability resulting from breach of any representation, warranty, covenant, or agreement under this Agreement. In the event that the conditions to close of escrow are not timely satisfied for a reason other than a default of CITY or SANBAG under this Agreement:

(i) The Closing of this transaction is contingent upon the satisfaction or waiver of conditions precedent above. If CITY fails to notify Escrow Holder, in writing, of the disapproval of any of said conditions precedent within two (2) business days after CITY's receipt of written notice from SANBAG or CITY's discovery, whichever is later, that such condition precedent will not be satisfied, it shall be conclusively presumed that CITY has waived such condition precedent; and

(ii) If CITY notifies Escrow Holder, in writing, of the disapproval of any of said conditions precedent, Escrow Holder, upon such termination, is hereby instructed to promptly return to CITY all funds (and all interest accrued thereon) and documents deposited by CITY in escrow and to return to SANBAG all funds and documents deposited by SANBAG in escrow and which are held by Escrow Holder on the date of the termination (less, in the case of the party otherwise entitled to such funds, however, the amount of any cancellation charges required to be paid by such party under Paragraph 4.12 below).

3.8 Recordation of Grant Deed and Easement Deed; Delivery of Funds. Upon receipt of the funds and instruments described in this Paragraph 4, Escrow Holder shall cause the Grant Deed and Easement Deed to be recorded in the office of the County Recorder of San Bernardino County, California. Thereafter, Escrow Holder shall deliver the proceeds of this escrow (less appropriate charges) to SANBAG.

3.9 Prorations. All real and personal property taxes, liens, and assessments shall be prorated between CITY and SANBAG as of the close of escrow based on the latest available tax information or, at SANBAG's election, such taxes, liens, and assessments may be paid in full through escrow to the lienholder from the Deposit, so long as the Deposit is sufficient to satisfy all outstanding liens. If such liens are paid through escrow, Escrow Holder shall cause the liens to be discharged and the discharge recorded prior to conveyance of fee title of the Property to CITY. Any supplemental or escape real estate taxes and assessments on the Property attributable to the period prior to the close of escrow shall be paid by SANBAG outside of the escrow. All prorations shall be determined on the basis of a 360-day year.

### 3.10 Costs of Escrow

#### 3.10.1 SANBAG shall pay:

- (a) The cost of any obligations of SANBAG hereunder.

#### 3.10.2 CITY shall pay

- (a) All escrow fees and costs associated with the purchase of the subject real property;
- (b) The cost of recording the Grant Deed and Easement Deed, if any;
- (c) The cost of documentary transfer taxes in connection with the recordation of the Grant Deed, if any;

(d) The cost of any obligations of CITY hereunder; and

(e) Any other closing costs or charges not expressly provided for herein and customarily paid by a purchaser of real property in San Bernardino County, California.

3.11 Broker's Commission. SANBAG shall pay all claims of brokers, agents, or finders, licensed or unlicensed, and all claims of real estate or other consultants, which exist or may arise as a result of SANBAG's actions with respect to the Property. CITY shall not be liable for any such fees or claims and SANBAG shall indemnify CITY, its officers, employees, and agents, from any and all costs, liabilities, or judgments, including attorney's fees, incurred in defending or paying any such claims.

3.12 Escrow Cancellation Charges. In the event that this escrow shall fail to close by reason of the default of either party hereunder, the defaulting party shall be liable for all escrow and title cancellation charges. In the event that the escrow shall fail to close for any other reason, each party shall pay one-half (½) of all escrow and title cancellation charges.

#### 4. REPRESENTATIONS AND WARRANTIES BY SANBAG.

In consideration of CITY's entering into this Agreement and as an inducement to CITY to purchase the Property, SANBAG makes the following representations and warranties, each of which is material and is being relied upon by CITY (the continued truth and accuracy of which shall constitute a condition precedent to CITY's obligations to close hereunder and each of which shall survive the close of escrow):

4.1 This Agreement has been duly and validly authorized, executed, and delivered by SANBAG and no other action is requisite to the valid and binding execution, delivery, and performance of this Agreement by SANBAG;

4.2 There are no suits pending against or affecting or, to the best of SANBAG's knowledge, without having made investigation thereof, threatened against the Property or its use, whether in law or at equity;

4.3 Other than as disclosed in this Agreement, no joinder, consent, or waiver of or by any third party is necessary to permit the consummation by SANBAG of the transaction contemplated pursuant to this Agreement;

4.4 To SANBAG's best knowledge, there are no materials, reports, and/or information in SANBAG's possession relating to the Environmental Condition (any condition that exists prior to or after the Closing Date, with respect to the air, land, soil, surface, subsurface strata, surface water, ground water, storm water, or sediments) of the Property, and there are no outstanding environmental remediation orders or decrees (federal or state) regarding the Property. SANBAG shall deliver to CITY any materials and reports relating to the Environmental Condition of the Property, which comes into SANBAG's possession, and any

information relating to the Environmental Condition of the Property, of which SANBAG becomes aware;

4.5 To the best of SANBAG's knowledge, SANBAG is not aware of the existence of any violation of law or violation of governmental regulation with respect to the Property, including any Environmental Laws, as hereinafter defined;

4.6 There are no pending, or to the best of SANBAG's knowledge, without having made investigation thereof, threatened proceedings in eminent domain, which would affect the Property, or any portion thereof;

4.7 To the best of SANBAG's knowledge there has been no production, disposal or storage on the Property of any Hazardous Materials (as hereinafter defined) by SANBAG or any of the contractors, agents, employees, or representatives of SANBAG or, to the best of SANBAG's knowledge, any previous owner or current or previous tenant of the Property; and to the best of SANBAG's knowledge, there has not been any other activity on the Property which could have resulted in the deposit or release on the Property of Hazardous Materials, or the violation of any Environmental Laws, or which could result in any proceeding or inquiry by any authority with respect thereto;

4.8 SANBAG is not a "foreign person" within the meaning of Internal Revenue Code 1445; and

4.9 As of the Closing Date, there shall be no leases and/or other agreements in existence affecting the Property.

The term "Hazardous Materials" shall mean and include the following, including mixtures thereof: any hazardous substance, pollutant, contaminant, waste, by-product or constituent regulated under the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq.; oil and petroleum products and natural gas, natural gas liquids, liquefied natural gas and synthetic gas usable for fuel; pesticides regulated under the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Section 136 et seq.; asbestos and asbestos-containing materials, PCBs and other substances regulated under the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; source material, special nuclear material, by-product material and any other radioactive materials or radioactive wastes, however produced, regulated under the Atomic Energy Act or the Nuclear Waste Policy Act of 1982; chemicals subject to the OSHA Hazard Communication Standard, 29 C.F.R. Section 1910.1200 et seq.; industrial process and pollution control wastes, whether or not hazardous within the meaning of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; any substance defined as a "hazardous substance" in California Civil Code Section 2929.5(e)(2) or California Code of Civil Procedure Section 736(f)(3); and any other substance or material regulated by any Environmental Laws.

The term "Environmental Laws" shall mean and include all federal, state, and local statutes, ordinances, regulations and rules in effect on or prior to the date hereof relating to environmental quality, health, safety, contamination, and clean-up, including, without limitation, the Clean Air Act, 42 U.S.C. Section 7401 et seq; the Clean Water Act, 33 U.S.C. Section 1251

et seq.; the Noise Control Act, 42 U.S.C. Section 4901 et seq.; the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq.; the Resource Conservation and Recovery Act 42 U.S.C. Section 6901 et seq.; as amended by the Hazardous and Solid Waste Amendments of 1984; the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq.; the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq.; as amended by the Superfund Amendments and Preauthorization Act, the Emergency Planning and Community Right-to-Know Act and the Radon Gas and Indoor Air Quality Research Act, the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Atomic Energy Act, 42 U.S.C. Section 2011 et seq.; and the Nuclear Waste Policy Act of 1982, 42 U.S.C. Section 10101 et seq.; and state and local environmental statutes and ordinances, with implementing regulations and rules in effect on or prior to the date hereof.

5. EMINENT DOMAIN OR TAKING; PHYSICAL DAMAGE OR DESTRUCTION.

5.1 If, prior to the close of escrow, any material portion of the Property is taken or if the access thereto is reduced or restricted by eminent domain or otherwise (or becomes the subject of a pending, threatened, or contemplated taking which has not been consummated, other than any such taking prosecuted by or on behalf of the CITY), SANBAG shall immediately notify CITY of such fact. In such event, CITY shall have the option, in its sole and absolute discretion, to terminate this Agreement upon written notice to SANBAG given not later than ten (10) business days after receipt of SANBAG's notice. If CITY does not exercise this option to terminate this Agreement, neither party shall have the right to terminate this Agreement, but SANBAG shall assign and turn over to CITY, and the CITY shall be entitled to receive and keep, all awards for the taking by eminent domain which accrue to SANBAG, and the parties shall proceed to the close of escrow pursuant to the terms hereof, without modification of the terms of this Agreement and without any reduction in the Purchase Price (except as otherwise provided pursuant to Paragraph 1.2 hereof). Unless and until this Agreement is terminated, SANBAG shall take no action with respect to any eminent domain proceeding without the prior written consent of CITY, which consent shall not be unreasonably withheld or delayed.

5.2 If, prior to the close of escrow, any material portion of the Property is physically damaged or destroyed due to any cause, natural or otherwise, including, without limitation, (i) fire or flooding, (ii) any destructive seismic or geological conditions such as any earthquake or tremor, substance, or unstable subsurface conditions; or (iii) a condition arising from any discharge of Hazardous Materials or other violation of any Environmental Laws, SANBAG shall immediately notify CITY of such fact. In such event, CITY shall have the option, in its sole and absolute discretion, to terminate this Agreement upon written notice to SANBAG given not later than ten (10) business days after receipt of SANBAG's notice. If CITY does not exercise this option to terminate this Agreement, neither party shall have the right to terminate this Agreement, but SANBAG shall assign and turn over, and the CITY shall be entitled to receive and keep, all insurance proceeds paid by SANBAG's insurer in connection with such damage or destruction, and the parties shall proceed to the close of escrow pursuant to the terms hereof, without modification of the terms of this Agreement and without any reduction in the Purchase Price (except as otherwise provided pursuant to Paragraph 1.2 hereof). Unless and until this Agreement is terminated, SANBAG shall take no action with respect to any such

damage and destruction without the prior written consent of CITY, which consent shall not be unreasonably withheld or delayed.

6. INCORPORATION OF EXHIBITS. All exhibits attached hereto and referred to herein are incorporated in this Agreement as though fully set forth herein.

7. LEGAL FEES, COSTS AND EXPENSES. If any arbitration or legal action is instituted to enforce or declare any party's rights hereunder, each party, regardless of which party is the prevailing party, must bear its own costs, expenses and attorneys fees.

8. NOTICES. All notices, requests, demands, and other communication given or required to be given hereunder shall be in writing and personally delivered, sent by first class United States registered or certified mail, postage prepaid, return receipt requested, or sent by a nationally recognized courier service such as Federal Express, duly addressed to the parties as follows:

To CITY: City of Rancho Cucamonga  
10500 Civic Center  
Rancho Cucamonga, CA 91730  
Attention: Linda Daniels  
Deputy City Manager  
Economic and Community Development  
Tel: (909) 477-2700  
Fax: (909) 477-2849

With a Copy To: Richards, Watson & Gershon  
355 South Grand Avenue, 40th Floor  
Los Angeles, California 90071-3101  
Attention: James L. Markman  
Tel: (213) 626-8484  
Fax: (213) 626-0078

To SANBAG: San Bernardino Associated Governments  
1170 West 3<sup>rd</sup> Street  
San Bernardino, California 92807  
Attention: Mitch Alderson  
Director of Transit and Rail Programs  
Tel: (909) 884-8276

With a Copy To: Jean-Rene Basle  
SANBAG Counsel  
385 North Arrowhead Avenue, 4<sup>th</sup> Floor  
San Bernardino, CA 92415-0140  
Tel: (909) 387-5477  
Fax: (909) 387-5462

To Escrow Holder:

Chicago Title Company  
560 East Hospitality Lane  
Rancho Cucamonga, CA 91730  
Attention: Dawn Chapparo  
Tel: (909) 384-7811

Delivery of any notice or other communication hereunder shall be deemed made on the date of actual delivery thereof to the address of the addressee, if personally delivered, and on the date indicated in the return receipt of courier's records as the date of delivery or as the date of first attempted delivery, if sent by mail or courier service. Any party may change its address for purposes of this Paragraph 9 by giving notice to the other party and to Escrow Holder as herein provided.

9. ASSIGNMENT. Neither this Agreement nor any interest herein may be assigned by either party without the prior written consent of the other party.

10. BINDING EFFECT. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their successors and assigns.

11. ENTIRE AGREEMENT. This Agreement contains all of the agreements of the parties hereto with respect to the matters contained herein, and all prior or contemporaneous agreements or understandings, oral or written, pertaining to any such matters are merged herein and shall not be effective for any purpose. No provision of this Agreement may be amended, supplemented, or in any way modified except by an agreement in writing signed by the parties hereto or their respective successors in interest and expressly stating that it is an amendment of this Agreement.

12. ENFORCEMENT OF AGREEMENT BY SANBAG. If the sale of the Property is not consummated as a result of the CITY's material default hereunder, then SANBAG may enforce its rights hereunder by an action against CITY for damages, resulting from the material breach of this Agreement by CITY.

13. ENFORCEMENT OF AGREEMENT BY CITY. It is agreed that the rights granted to CITY by SANBAG hereunder are of a special and unique kind and character, and that, if there is a breach by SANBAG of any material provision of this Agreement, CITY would not have any adequate remedy at law. It is expressly agreed, therefore, that CITY's rights hereunder may be enforced by an action for specific performance and such other equitable or legal relief as is provided under the laws of the State of California.

14. APPLICABLE LAW. This Agreement shall be governed by the laws of the State of California.

15. HEADINGS. The headings of this Agreement are for purposes of reference only and shall not limit or define the meaning of the provisions of this Agreement.

16. COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

17. SURVIVAL. Any provision hereof which is executory as of the Closing Date and all representations and warranties shall survive such close of escrow and delivery of the Grant Deed and shall continue to be a binding provision on the parties hereto according to its terms.

18. TIME OF THE ESSENCE. Time is of the essence of this Agreement.

19. THIRD PARTIES. Nothing contained in this Agreement, expressed or implied, is intended to confer upon any person, other than the parties hereto and their successors and assigns, any rights or remedies under or by reason of this Agreement.

20. SEVERABILITY. If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein, unless such invalidity, illegality or unenforceability materially affects the economic terms of the transactions contemplated by this Agreement or the ability of either party to perform its obligations under this Agreement. In such case, either party may terminate this Agreement and the escrow upon written notice to the other party given no later than ten (10) business days after the party giving such notice becomes aware of such invalidity, illegality, or unenforceability. In the event of such termination, all funds deposited with Escrow Holder by CITY and any interest accrued thereon shall be returned to CITY.

21. ADDITIONAL DOCUMENTS. Each party hereto agrees to perform any further acts and to execute, acknowledge, and deliver any further documents that may be reasonably necessary to carry out the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

"SANBAG"

SAN BERNARDINO ASSOCIATED  
GOVERNMENTS  
A Joint Powers Authority

"CITY"

RANCHO CUCAMONGA  
A Municipal Corporation

By: \_\_\_\_\_  
Brad Mitzelfelt  
Chairman, Board of Directors

By: \_\_\_\_\_  
Donald J. Kurth  
Mayor

Attest

By: \_\_\_\_\_  
Debra Adams, City Clerk  
City of Rancho Cucamonga

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Jean Rene-Basle  
SANBAG Counsel

APPROVED AS TO FORM:  
Richards Watson & Gershon

By: \_\_\_\_\_  
Kirsten R. Bowman  
Assistant City Attorney

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
 ■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

# *Minute Action*

AGENDA ITEM: 16

**Date:** August 4, 2010

**Subject:** Omnitrans' Projected Sources of Revenue for Fiscal Years 2011 - 2016

**Recommendation:\*** Receive information on Omnitrans projected sources of revenue and local funding for fiscal years 2011-2016 as required by the Federal Transit Administration for the approval of the sbX Bus Rapid Transit (BRT) Project Construction Grant Agreement.

**Background:** Yearly SANBAG issues funding projections to all of the transit agencies in the county to assist in developing short and long range planning documents. Omnitrans is currently working towards receiving the Project Construction Grant Agreement (PCGA) from the Federal Transit Administration for the sbX project. Omnitrans must present a forecasted fiscal year 2011 – 2016 Short Range Plan in order to move the sbX project forward and to receive the complete funding.

SANBAG and Omnitrans through a series of meetings have agreed to projected revenue forecasts that reflect the current estimated economic conditions. This does not guarantee nor promise these funds to Omnitrans, but reflects projected revenue sources only. Although several funding sources under SANBAG's control cited in the Omnitrans agenda item, specific sources and amounts cannot be committed until full federal authorization and full array of needs can be assessed by SANBAG Board. Attached is Omnitrans' agenda item, Projected Source of Revenue for Fiscal Years 2011 – 2016, addressing the five forecast that was reviewed at their July 19, 2010 Administrative and Finance Committee.

\*

*Approved  
Board of Directors*

*Date:* \_\_\_\_\_

*Moved:* \_\_\_\_\_ *Second:* \_\_\_\_\_

*In Favor:* \_\_\_\_\_ *Opposed:* \_\_\_\_\_ *Abstained:* \_\_\_\_\_

*Witnessed:* \_\_\_\_\_

X	COG	X	CTC		CTA		SAFE		CMA
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Check all that apply

BRD1008c-maa

Attachment:

BRD1008c1-maa

In the future years, SANBAG anticipates additional projects that will begin construction and operation that will need funding from some of the same sources as Omnitrans anticipates using that will require approval by the SANBAG Board. SANBAG is also working with Omnitrans to complete a full Comprehensive Operational Analysis (COA) that will look at competing demands on limited funding sources, help ensure Omnitrans has and is running productive services, the shifting of Access Services over to the potential newly formed Consolidated Transportation Services Agency (CTSA) in an effort to save money, and consider the development of future Bus Rapid Transit (BRT) lines within the San Bernardino Valley.

***Financial Impact:*** This item has no financial impact.

***Reviewed By:*** This item was reviewed by the Commuter Rail & Transit Committee on July 22, 2010 and unanimously recommended for approval.

***Responsible Staff:*** Mitch Alderman, Director of Transit and Rail Programs

## ATTACHMENT

**DATE:** July 19, 2010

**TO:** Committee Chair Floyd Petersen and Members of the  
Administrative and Finance Committee

**THROUGH:** Milo Victoria, CEO/General Manager

**FROM:** Robert Miller, Chief Financial Officer  
Donald Walker, Director of Finance  
Maurice A. Mansion, Treasury Manager

**SUBJECT: PROJECTED SOURCES OF REVENUE FOR FISCAL YEARS 2011 - 2016**

### **FORM MOTION**

Receive and forward to the Board of Directors for approval the projected sources of revenue and authorized local funding for fiscal years 2011-2016.

### **SUMMARY AND BACKGROUND**

Each fiscal year Omnitrans receives financial guidance related to the funding sources for the upcoming fiscal years from the San Bernardino Associated Governments (SANBAG).

SANBAG and Omnitrans through a series of meetings have agreed to use the revenue projections outlined on the following page as a baseline forecast for the period. SANBAG has issued Omnitrans a forecast for Fiscal Years 2011 – 2016. The forecasts best reflects the current economic conditions and assumed growth rates for this period.

SANBAG and Omnitrans agree that Omnitrans will utilize the current forecast to develop its FY2011- FY2016 Short Range Transit Plan (2011-2016 SRTP), the Project Construction Grant Agreement (PCGA) with the Federal Transit Administration for the sbX E Street Corridor project and all fiscal year budgets for this time frame.

Both parties agree that the current forecast is only a guiding instrument to help with the development of the Fiscal Years 2011 - 2016 SRTP, the PCGA and agency budgets for FY 2011- FY 2016. The forecast is subject to change and both parties will work to address any funding issues that may arise from any changes in the forecast. The current forecast for FY 2011 – FY 2016 shows that Omnitrans will receive sufficient revenues to continue its operation and

sufficiently fund the development and operations of the sbX E Street Corridor project during this funding period.

The sbX capital Allocation – Local Funding Committed shows the prior allocations and the funds that Omnitrans' and SANBAG's staff has recommended to fund the capital needs for the sbX project.

We are requesting that the Boards of both organizations approve staff recommendations so Omnitrans can reflect the authorized local funding in the Project Construction Grant Agreement submission to the FTA to be submitted in September 2010.

SANBAG will discuss this item in general at their Commuter Rail and Transit Committee on July 22, 2010.

### **REVENUE SOURCES – For Financial Forecasts**

Source	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016	TOTAL
FTA 5307	\$16,941,200	\$16,941,200	\$16,160,700	\$16,160,700	\$16,160,700	\$16,160,700	\$98,625,200
CMAQ	\$9,900,000	\$9,900,000	\$9,900,000	\$9,900,000	\$9,900,000	\$9,900,000	\$69,400,000
STA	\$3,711,600	\$3,711,600	\$3,711,600	\$3,711,600	\$3,711,600	\$3,711,600	\$22,269,000
STA-Operator	\$900,000	\$900,000	\$900,000	\$900,000	\$900,000	\$900,000	\$6,400,000
Measure I - E&H	\$6,300,000	\$4,975,906	\$5,075,424	\$5,202,309	\$5,358,379	\$5,358,379	\$32,270,396
Measure I - BRT	\$1,639,808	\$1,664,405	\$1,697,693	\$1,740,138	\$1,742,340	\$1,794,610	\$10,278,992
Prop 1B	\$6,863,950	\$6,863,950	\$6,863,950	\$6,863,950	\$2,544,200	0	\$30,000,000
Prop 1B - Secure	\$1,318,312	\$1,318,312	\$1,318,312	\$1,318,312	\$1,318,312	\$1,318,312	\$7,909,872
LTF	\$33,939,983	\$33,467,135	\$32,891,557	\$33,721,764	\$34,742,796	\$35,794,489	\$204,557,794
Total	\$81,514,753	\$79,742,408	\$78,519,236	\$79,518,671	\$76,378,227	\$74,937,960	\$470,611,254

### **sbX Capital Allocation – Local Funding Committed**

Source	Prior	FY2011	FY2012	FY2013	TOTAL
STIP	\$5,000,000	\$0	\$0	\$0	\$5,000,000
STA	\$10,094,504	\$1,006,917	\$0	\$0	\$11,101,421
Prop 1B	\$7,676,750	\$6,863,950	\$0	\$0	\$14,540,700
LTF	\$5,315,863	\$0	\$0	\$0	\$5,315,863
Measure I - BRT	\$482,500	\$1,639,808	\$1,664,405	\$1,697,693	\$5,484,406
In Kind	\$0	\$8,080,550	\$0	\$0	\$8,080,550
LTF Carryover	\$0	\$0	\$7,000,000	\$0	\$7,000,000
Total	\$28,569,617	\$17,591,225	\$8,664,405	\$1,697,693	\$56,522,940

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
 ■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

## *Minute Action*

AGENDA ITEM: 17

**Date:** August 4, 2010

**Subject:** Formation of a Consolidated Transportation Services Agency (CTSA) for the Valley portion of San Bernardino as identified in the reauthorization of Measure I.

**Recommendation:**

1. Establish a new non-profit entity to serve as the Consolidated Transportation Services Agency for the Valley portion of San Bernardino County.
2. Disband Ad Hoc Committee created for the CTSA.

**Background:** In August 2009, SANBAG engaged the services of Innovative Paradigms to conduct a design study for the creation of a Consolidated Transportation Services Agency (CTSA). The CTSA was identified in the reauthorization of Measure I with 2% of the revenue designated for the formation and operation of the CTSA. The Measure I expenditure plan details the implementation actions and recognizes the legislative intent of creating the CTSA which will improve transit services for persons with disabilities, seniors, and persons of low income. Pursuant to Section 6680 of the Code of Regulations, the SANBAG Board of Directors, acting as the county transportation commission, shall designate the CTSA. By statute, only SANBAG has the authority to designate a CTSA.

There has been an emphasis on the coordination of human service transportation in California since 1979 when legislation was passed calling for the creation of Consolidated Transportation Services Agencies (CTSA's). A Federal emphasis

*Approved*  
*Board of Directors*

Date: \_\_\_\_\_

Moved:

Second:

In Favor:

Opposed:

Abstained:

Witnessed: \_\_\_\_\_

X	COG	X	CTC		CTA		SAFE		CMA
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Check all that apply

BRD1008d-bk

Attachments:

BRD1008d1-bk

BRD1008d2-bk

Consolidated Transportation Services Agencies (CTSA's). A Federal emphasis on coordination emerged in 2005 with the passage of SAFETEA-LU which required the preparation of a human service coordination plan in order for any organization to be eligible to receive 5310 (senior and disabled funding program), 5316 Job Access and Reverse Commute (JARC) (directed at low income individuals), and 5317 New Freedom (service for the disabled beyond ADA minimum requirements). SANBAG completed a Coordination Plan in 2007. That Plan recommended the creation of a CTSA as the vehicle for implementing coordination in the San Bernardino Valley region.

The adoption of this Plan was also consistent with provisions in the reauthorization of the Measure I. That ordinance included specific language allocating 8% of the funds to Senior and Disabled Transit Service which included the addition of 2% to that program for supporting the creation of a CTSA in the Valley area. Funds from the renewal of Measure I began to accrue on April 1, 2010 and are expected to generate approximately \$1.7 million per year for CTSA purposes.

### **Stakeholder Role**

As part of the Design Study for the CTSA, the Innovative Paradigms consulting team conducted extensive interviews with a broad range of potential stakeholders in the region. With the assistance of the SANBAG staff, the consulting team attempted to identify all of the major agencies and individuals in the Valley area. Structured interviews were held with 43 individuals representing more than 25 community and public agencies. These interviews probed the interests of the organization, their views of the services available in the community, and in particular, Access ADA paratransit service provided by Omnitrans. Using the outcome of the stakeholder process in combination with the documented successes of non-profit CTSA models in other parts of California, the consulting team brought forth a non-profit model as the preferred alternative for the San Bernardino Valley CTSA.

### **CTSA Agency Structure**

Using successful non-profit CTSA's in other parts of California as a model, a set of Articles of Incorporation have been drafted for consideration by the Committee. Similarly, a set of corporate By-laws has been drafted. Among the key provisions of these documents is the proposed structure of the new CTSA Board of Directors. In an effort to balance effective governance with true representation, a Board structure is proposed. The governance structure is ultimately subject to approval by the SANBAG Board of Directors.

Working with legal counsel and evaluating other successful nonprofit structures, the staff and consulting team recommend a Board of Directors comprised of seven (7) members. These members would be appointed by various government agencies having an interest in transportation services in the Valley area. The appointing authority would be set forth in the corporate By-laws. The suggested appointing structure is as follows:

- Three (3) Board Members appointed by the SANBAG Board of Directors
- Two (2) Board Members appointed by the San Bernardino County Board of Supervisors
- Two (2) Board Members appointed by the Omnitrans Board of Directors

While appointed members of the CTSA may be elected officials, it is recommended that appointees be dedicated and passionate about the services to be provided.

### **Functional Programs Provided by CTSA**

Immediately upon creation of the new CTSA, its Board and SANBAG staff dialogue should specify the functions that offer the greatest impact on the target populations. A tentative model for the provision of specific functions follows.

Among those appropriate for early consideration are:

Agency Provided Trips: This well-established approach to service delivery involves partnerships between the CTSA and community agencies. Typical of such partnerships is the operation of services directly by community agencies for their clients or those of similar agencies. Operating efficiencies in these arrangements derive from the leverage of some CTSA funding with other funds provided by the agency or through specific grants for such purposes (New Freedom is a typical source for agencies servicing the disabled). This approach to service delivery can have the largest and most immediate impact on service capacity and quality.

Travel Training: This cost effective function involves the active training of current ADA paratransit (Access) system users to use the fixed route bus system. Success travel training has been well documented on other communities. In one noteworthy example in Spokane, Washington, actual usage of the fixed route system can be documented through the use of Smartcards as the fare payment mechanism. Trained riders' actual usage can be tracked through their use of Smartcards. Other communities have also benefited greatly from the use of travel

training to move individuals off of the paratransit system. This would be a low cost and easy to implement function for the CTSA.

### **Funding**

The new CTSA in the San Bernardino Valley has the benefit of starting with an excellent funding base. Measure I contains language that allocates 2% of the available sales tax funds specifically for the CTSA. This is expected to result in approximately \$1.7 million per year in funds for operation of the CTSA. This is a significant funding level upon which to leverage other funds to create opportunities for expanding transportation services in the Valley.

### **Next Steps**

Establish a new non-profit corporation and designate an implementation team comprised of SANBAG counsel, SANBAG staff, and SANBAG consultant staff. Implementation team will work on bringing forth possible candidates for the new CTSA Board of Directors and will create the final Articles of Incorporation/By-laws, process for hiring the Executive Director, suggested employee benefits, and identify potential stakeholders. The final corporation documents and recommended list of Board appointees will be presented at a subsequent SANBAG Board meeting.

**Financial Impact:** This item is consistent with the FY 2010/2011 Budget; Task Number 31911000.

**Reviewed By:** This item was reviewed by the Commuter Rail & Transit Committee on July 22, 2010 and unanimously recommended for approval.

**Responsible Staff:** Mitch Alderman, Director of Transit and Rail Programs

## **Bylaws of San Bernardino Valley CTSA**

### **Article I – Name, Offices and Purpose**

1. The name of this nonprofit public benefit corporation is Transportation Coordination Agency of San Bernardino, a Consolidated Transportation Services agency (CTSA).
2. The location of the principal place of business shall be at \_1170 W. 3<sup>rd</sup>. Street, San Bernardino, CA, 92410.
3. The purposes of the San Bernardino Valley CTSA are to:
  - a. Improve the quality and effectiveness of transportation services to senior citizens, persons with disabilities and persons of low income within the area described as the western portion of San Bernardino County including the cities of Chino, Chino Hills, Colton, Fontana, Grand Terrace, Highland, Montclair, Loma Linda, Ontario, Rancho Cucamonga, Rialto, San Bernardino, Upland and Yucaipa, referred to herein as the "San Bernardino Valley".
  - b. Identify, organize and service the special transit needs of senior citizens, person with disabilities and persons of low income within the San Bernardino Valley.
  - c. To provide support transit services to other agencies within the San Bernardino Valley.

### **Article II – Membership**

The Board of Directors shall constitute the members.

### **Article III – Board of Directors**

1. Board Role, Size and Compensation
  - a. Subject to the limitations as prescribed by the Nonprofit Public Benefit Corporation Law, all corporate powers shall be exercised by or at the direction of, and the business and affairs of the Corporation shall be managed by, the Board of Directors. The individual directors shall act only as members of the Board, and the individual directors shall have no power as such.
  - b. The Board is comprised of 7 members who shall be appointed as follows:
    - Three (3) appointed by San Bernardino Associated Governments (must be representative of the San Bernardino Valley)
    - Two (2) appointed by San Bernardino County Board of Supervisors (must be representative of the San Bernardino Valley area)
    - Two (2) appointed by Omnitrans – must be representative of designated population
  - c. The Board members may be elected officials or members of the general public representative of the designated populations.
  - d. The Board members shall receive no compensation other than the reimbursement of reasonable expenses incurred on behalf of the San Bernardino Valley CTSA.
  - e. A SANBAG representative shall serve as an ex-officio member of the Board of Directors.

- f. Members of the Board shall not be entitled to designate or send an alternate for attendance or voting at meetings.

2. Terms of Office, Resignations, and Vacancies:

- a. The term of a director is three year terms, and each is eligible for re-appointment for a maximum of two consecutive terms.
- b. Any director may resign at any time by giving written notice of such to the President, Secretary, Treasurer, or Board and to that director's appointing body pursuant to Article III, 1. b. Such resignation shall take effect at the time specified in the notice
- c. The term of office of any director shall expire and there shall be a vacancy on the Board in the event the Board declares the term of a director to have expired following a failure by that director to attend three consecutive meetings of the Board whether excused or unexcused or who has a total of four unexcused absences in a 12 month period. A letter will be sent to the appointing body with a notification of the member's status.

3. Board of Directors Meetings and Notices:

- a. Regular Meetings: The Board of Directors shall meet at least quarterly, at an agreed upon time and place. An official Board meeting requires that each Board member have written notice at least two weeks in advance. Board members are required to call the Secretary to the Board of Directors at least 48 hours in advance when they are unable to attend a regularly scheduled meeting of the Board. Members who fail to so notify the Secretary to the Board of Directors prior to the scheduled meeting will be considered unexcused. Notice to the public shall be given in manner as required by applicable law, including the Brown Act.
- b. Special Meetings: Special meetings of the Board for any purpose may be called at any time by the President or by two directors. Notice of the time and place of special meetings shall be given to each director by personal delivery of written notice, by e-mail, by facsimile, either directly to the director or to a person at the director's office who would reasonably be expected to communicate such notice promptly to the director. The notice of a special meeting need not state the purpose of the meeting.

4. Quorum:

Not less than a majority of the Directors currently appointed and serving shall constitute a quorum of the Board of Directors. Every act or decision made by a majority of the directors present at a meeting duly held at which a quorum is present shall be the act of the Board subject to the provisions of these Bylaws and/or the California Nonprofit Public Benefit Corporation Law. In the absence of a quorum at any meeting of the Board, a majority of the directors present may adjourn the meeting. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of enough directors to leave less than a quorum, if any action taken is approved by at least a majority of the required quorum for such meeting.

Article IV Officers and Duties:

- a. There shall be four officers of the Board, consisting of a chair, vice chair, secretary and treasurer, all of whom shall hold their respective office for a term of one year. Officers of the Board shall be

elected at a Board meeting to be held in December of each year for a term beginning on January 1 of the subsequent year and ending on December 31 of that subsequent year.

b. The officers' duties are as follows:

The **chair** shall convene regularly scheduled Board meetings, shall preside or arrange for other members of the executive committee to preside at each meeting in the following order, vice chair, secretary and treasurer, and shall with ratification of the Board appoint persons to all committees. The **vice chair** shall chair committees on special subjects as designated by the Board.

The **secretary** shall maintain a record of the proceedings of all meetings of the Board; serve all notices required by Law or by the Bylaws; answer all correspondence requiring response or which may be submitted for such purpose by another officer. The Secretary shall maintain a complete up to date and accurate record of the Articles of Incorporation, Bylaws and any amendments to the Bylaws and file with the Secretary of State any amendments to the Articles of Incorporation.

The **treasurer** shall make a report quarterly to the Board on the financial statement of the corporation and more frequently as requested by the Board. The books and records of the corporation in the hands of the secretary or treasurer shall be open to inspection at all times to the Board of Directors. There shall be an annual audit by a certified public accountant.

The Board may authorize any officer, employee or agent, in the name and on behalf of the corporation, to enter into any contract or execute and satisfy any instrument, and any such authority may be general or confined to specific instances, or otherwise limited. In the absence of any action by the Board to the contrary, the Chair [and/or the Executive Director] shall be authorized to execute such instruments on behalf of the corporation.

All checks, drafts and other orders for the payment of money out of the funds of the corporation, and all notes or other evidences of indebtedness of the corporation, shall be signed on behalf of the corporation by the Treasurer or by such other officer or employee as may be determined by the Board.

#### **Article V – Committees**

1. The Board may, by majority vote of the directors then in office, create such other committees of the Board on any subjects within the powers or purposes of the Corporation, as needed. The Board chair shall appoint all committee chairs.
2. The Executive Committee shall consist of the four officers. Except for powers to amend the Articles of Incorporation and Bylaws, the executive committee shall have all the powers and authority of the

Board of Directors in the intervals between meetings of the Board of Directors, and is subject to the direction and control of the full Board.

3. A Finance Committee consisting of 3 Board Members one of whom must be the Board Treasurer; the committee would, among other things, be required to review the annual audit, oversee preparation of the annual budget by the staff, and monitor financial performance on an ongoing basis through records provided by staff

#### **Article VI – Executive Director and Staff**

1. Executive Director – the Executive Director is hired by the Board. The Executive Director shall fulfill the day to day responsibilities for the organization including carrying out the organization's goals and policies. The Executive Director will attend all Board meetings, report on the progress of the organization, answer questions of the Board of Directors and carry out the duties described in the job description. The Board of Directors can designate other duties as necessary.
2. The Executive Director is responsible to hire staff as needed. The Executive Director has the authority to hire and to make staffing adjustments when necessary.  
The Board of Directors can terminate the Executive Director as provided in the employment contract.

#### **Article VII – Indemnification of Directors and Officers and Insurance**

1. Right of Indemnity. To the full extent permitted by law, this corporation shall indemnify its directors, officers, employees and other persons described in Section 5238(9a) of the California Corporations Code, including persons formally occupying any such position, against all expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with any "proceeding", as that term is used in such Section and including an action by or in the right of the corporation, by reason of the fact that such person is or was a person described by such section. "Expenses" as used in the Bylaws shall have the same meaning as in Section 5238(a) of the California Corporations Code.
2. Approval of Indemnity. Upon written request to the Board by any person seeking indemnification under Section 5238(a) or Section 5238(c) of the California Corporations Code, the Board shall promptly determine in accordance with Section 5238(e) of the Code whether the applicable standard of conduct set forth in Section 5238(b) or Section 5238(c) has been met and if so the Board shall authorize indemnification. If the Board cannot authorize indemnification because the number of directors who are parties to the proceeding with respect to which indemnification is sought prevent the formation of a quorum of directors who are not parties to such proceeding, the Board or the attorney or other person rendering services in connection with the defense shall apply to the court in which such proceeding is or was pending to determine whether the applicable standard of conduct set forth in Section 5238(b) or Section 5238(c) has been met.

3. Advancement of Expenses. To the full extent permitted by law and except as is otherwise determined by the Board in a specific instance, expenses incurred by a person seeking indemnification under this Article VII in defending any proceeding covered by the Article shall be advanced by the corporation prior to the final disposition of the proceeding upon receipt by the corporation of an undertaking by or on behalf of such person that the advance will be repaid unless it is ultimately determined that such person is entitled to be indemnified by the corporation therefore.
4. Insurance. The corporation shall have the right to purchase and maintain insurance to the full extent permitted by law on behalf of its officers, directors, employees and other agents of the corporation, against any liability asserted against or incurred by an officer, director, employee or agent in such capacity or arising out of the officers, directors, employees or agents status as such.

#### Article VIII – Amendments

1. The Bylaws may be amended at any meeting of the Board by a majority vote of the current membership of the Board, provided the proposed amendment has been sent to each director at least thirty (3) days before the meeting.

#### CERTIFICATE OF SECRETARY

I, \_\_\_\_\_, HEREBY CERTIFY THAT:

I AM THE DULY ELECTED AND ACTING Secretary of the San Bernardino Valley CTSA, a California nonprofit public benefit corporation; and the foregoing Bylaws constitute the adopted Bylaws of said Corporation duly adopted \_\_\_\_\_[unanimously]\_\_\_\_by the Board of Directors effective \_\_\_\_\_, 2010.

IN WITNESS WHEREOF, I have hereunder subscribed my name this \_\_\_\_ of \_\_\_\_\_, 2010.

/s/ \_\_\_\_\_

[Name, Title]

Articles of Incorporation  
Of the San Bernardino Valley CTSA  
A California Nonprofit Public Benefit Corporation

I

The name of this nonprofit public benefit corporation is Transportation Coordination Agency of San Bernardino, a Consolidated Transportation Services agency (CTSA).

II

The location of its principal place of business shall be at 1170 W. 3<sup>rd</sup>. Street, San Bernardino, CA, 92410 , but it may establish other places of business and other offices at those other places within the County of San Bernardino as the board of directors may from time to time determine.

III

This corporation is a nonprofit Public Benefit Corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation Law for public and charitable purposes.

The specific public and charitable purposes of this corporation are:

A. to improve the quality and effectiveness of transportation services to senior citizens, persons with disabilities and persons of low income through coordination of transportation services with social services and other charitable organizations within the area described as \_\_\_\_\_, defined herein as the "San Bernardino Valley".

B. to identify, organize and serve the special transit needs of senior citizens, persons with disabilities and persons of low income within the San Bernardino Valley.

C. to provide supportive transit services to other agencies within San Bernardino Valley.

IV

The name and address in the State of California of this corporation's initial agent for service of process is:

Name:

Address:

City:

State:

V

A. This corporation is organized and operated exclusively for charitable purposes within the meaning of Internal Revenue Code section 501 (c) (3).

B. No part of the activities of this corporation shall consist of carrying on propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate or intervene in any political campaign (including the publishing or distribution of statements) on behalf of any candidate for public office.

## VI

The property of this corporation is irrevocably dedicated to charitable purposes and no part of the net income or assets of this corporation shall ever inure to the benefit of any director, officer or member thereof or to the benefit of any private person. Upon the dissolution or winding up of the corporation, its assets remaining after payment, or provision for payment, of all debts and liabilities of this corporation shall be distributed to a nonprofit fund, foundation or corporation which is organized and operated exclusively for charitable purposes and which has established its tax exempt status under Internal Revenue Code section 501 (c) (3).

In Witness Whereof, the following Incorporators have executed these Articles of Incorporation of the San Bernardino Valley CTSA as of \_\_\_\_\_, 2010:

\_\_\_\_\_  
Name of Incorporator

\_\_\_\_\_  
Name of Incorporator

DEPARTMENT OF VETERANS AFFAIRS



COUNTY OF SAN BERNARDINO  
HUMAN SERVICES

WEBSITE: [www.sbcounty.gov/va](http://www.sbcounty.gov/va)

175 West Fifth Street, Second Floor • San Bernardino, CA 92415-0470  
(909) 387-5516 • Fax (909) 387-6090

15456 West Sage Street, Suite 201 • Victorville, CA 92392-2331  
(760) 843-4300 • Fax (760) 843-4306

13260 Central Avenue, Second Floor • Chino, CA 91710-4165  
(909) 465-5241 • Fax (909) 465-5245

BILL J. MOSELEY  
Director

July 7, 2010

JUL - 8 2010

Ms. Beth Kranda  
Transit Programs  
San Bernardino Associated Governments  
1170 West 3<sup>rd</sup> Street  
San Bernardino, CA 92410-1715

SAN BERNARDINO  
ASSOCIATED GOVTS

Dear Ms. Kranda:

I am writing in support of SANBAG's development of a *Consolidated Transportation Services Agency* (CTSA) that will promote additional specialized transportation options for residents of the San Bernardino Valley who are seniors, disabled or of low-income.

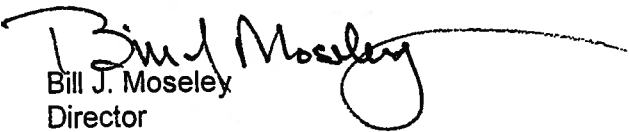
A majority of clients served by San Bernardino County Veterans Affairs' (approximately 20,000 yearly) include veterans from all eras who are seniors, disabled and/or of low-income. Our organization is particularly interested in transportation for veterans living in remote areas of our County and for veterans who cannot transport themselves to medical appointments or other critical services due to disability, age, or low income.

As I understand it, the CTSA expects to support a range of transportation alternatives and these could include directly operating transportation, contracting with agencies to provide transportation to targeted consumers, supporting vehicle maintenance, or group purchasing of fuel or insurance. I also understand that the new CTSA is developing its service model and service components and many of these are as yet unknown.

I appreciate the fact that many details must be worked out prior to finalizing service agreements. In the meantime, we are very interested in discussing CTSA service options that would benefit our clients within the CTSA's mission and purposes. We look forward to working with you to explore and define such service arrangements.

Thank you for the opportunity to work with SANBAG to help improve mobility within the San Bernardino Valley.

Sincerely,

  
Bill J. Moseley  
Director

/sg

DEPARTMENT OF AGING & ADULT SERVICES  
Choice, Independence and Quality of Life

The Designated Area Agency on Aging  
686 EAST MILL STREET • SAN BERNARDINO CA 92415-0009  
(909) 891-3900 • Fax (909) 891-3919



COUNTY OF SAN BERNARDINO  
HUMAN SERVICES

COLLEEN KRYGIER  
Director

TDD - Telephone Services for the Hearing Impaired  
(909) 388-4502 Adult Services  
(909) 388-4555 Aging Services

July 6, 2010

RECEIVED  
JUL - 8 2010  
SAN BERNARDINO  
ASSOCIATED GOVTS

Ms. Beth Kranda  
Transit Programs  
San Bernardino Associated Governments  
1170 West 3<sup>rd</sup> Street  
San Bernardino, CA. 92410-1715

Dear Ms. Kranda:

We are writing in support of SANBAG's developing *Consolidated Transportation Services Agency* (CTSA). As we understand it, the CTSA will promote additional specialized transportation options for residents of the San Bernardino Valley who are seniors, are disabled or of low-income. The clients served by our agency are the seniors and disabled of San Bernardino County.

As we understand it, the CTSA expects to support a range of transportation alternatives and these could include directly operating transportation, contracting with agencies to provide transportation to targeted consumers, supporting vehicle maintenance or group purchasing of fuel or insurance. We recognize that this new organization is developing its service model and service components and many of these are as yet unknown. Our organization is particularly interested in transportation options for seniors and the disabled.

While there are many details to develop in order to arrive at final service agreements, we are very interested in pursuing discussion of CTSA service options that would benefit our client base and are consistent with the overall mission and purposes of the developing CTSA for the San Bernardino Valley. We look forward to working with you to explore and define just what service arrangements can serve both clients of the San Bernardino County Department of Aging and Adult Services and the new CTSA.

Thank you for the opportunity that this represents to improve mobility within the San Bernardino Valley.

Sincerely,  
  
Colleen Krygier  
Director

GREGORY C. DEVEREAUX  
County Administrator Officer  
LINDA HAUGAN  
Assistant County Administrator  
Human Services

BRAD MITZELFELT ..... First District  
PAUL BIANE ..... Second District

NEIL DERRY ..... Third District  
GARY OVITT ..... Fourth District

JOSIE GONZALES ..... Fifth District



AMERICA'S POVERTY FIGHTING NETWORK

Community Action Partnership  
of San Bernardino County

696 S. Tippecanoe Avenue  
San Bernardino, CA 92415-0610  
[www.sbcounty.gov/capsbc](http://www.sbcounty.gov/capsbc)

The Promise of Community Action

Community Action changes people's lives, embodies the spirit of hope,  
improves communities, and makes America a better place to live.  
We care about the entire community, and we are dedicated to helping people  
help themselves and each other.

July 7, 2010

Ms. Beth Kranda  
Transit Programs  
San Bernardino Associated Governments  
1170 West 3<sup>rd</sup> Street  
San Bernardino, CA. 92410-1715

Dear Ms. Kranda:

We are writing in support of SANBAG's developing *Consolidated Transportation Services Agency* (CTSA). As we understand it, the CTSA will promote additional specialized transportation options for residents of the San Bernardino Valley who are seniors, are disabled or of low-income. The clients served by our agency are all of those populations, as well as youth, individuals and families.

As we understand it, the CTSA expects to support a range of transportation alternatives and these could include directly operating transportation, contracting with agencies to provide transportation to targeted consumers, supporting vehicle maintenance or group purchasing of fuel or insurance. We recognize that this new organization is developing its service model and service components and many of these are as yet unknown. Our organization is particularly interested in projects that provide transportation during non-traditional hours and to remote areas, particularly for the purpose of employment.

While there are many details to develop in order to arrive at final service agreements, we are very interested in pursuing discussion of CTSA service options that would benefit our client base and are consistent with the overall mission and purposes of the developing CTSA for the San Bernardino Valley. We look forward to working with you to explore and define just what service arrangements can serve both clients of Community Action Partnership of San Bernardino County (CAPSBC) and the new CTSA.

Thank you for the opportunity that this represents to improve mobility within the San Bernardino Valley.

Sincerely,

Patricia L. Nickols  
Chief Executive Officer

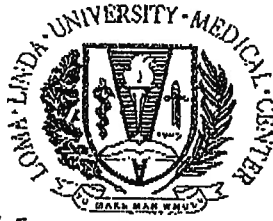
PLN:dgb

☎ Energy, Education, and Environmental Services (909) 723-1620 Fax (909) 723-1629

☎ Family Development Program (909) 723-1560 Fax (909) 723-1569

☎ CAPSBC Food Bank (909) 723-1580 ☎ Inland Empire Individual Development Accounts Program (909) 723-1570

☎ Homeless Coalition (909) 723-1592 ☎ Administration (909) 723-1510 Fax (909) 723-1509



## LOMA LINDA UNIVERSITY MEDICAL CENTER

Adult Day Services

07/14/2010

11406 Loma Linda Drive, East Room 501  
Loma Linda, California 92354  
(909) 558-6198  
FAX: (909) 558-6270

Ms. Beth Kranda  
Transit Programs  
San Bernardino Associated Governments  
1170 West 3<sup>rd</sup> Street  
San Bernardino, CA. 92410-1715

Dear Ms. Kranda:

We are writing in support of SANBAG's developing *Consolidated Transportation Services Agency* (CTSA). As we understand it, the CTSA will promote additional specialized transportation options for residents of the San Bernardino Valley who are seniors, are disabled or of low-income. The clients served by our agency are medically fragile who either reside with a family member or at a Board and Care facility and have great transportation needs.

As we understand it, the CTSA expects to support a range of transportation alternatives and these could include directly operating transportation, contracting with agencies to provide transportation to targeted consumers, supporting vehicle maintenance or group purchasing of fuel or insurance. We recognize that this new organization is developing its service model and service components and many of these are as yet unknown. Our organization is particularly interested in cooperating with CTSA to meet the transportation needs of frail elderly and dependent adults.

While there are many details to develop in order to arrive at final service agreements, we are very interested in pursuing discussion of CTSA service options that would benefit our client base and are consistent with the overall mission and purposes of the developing CTSA for the San Bernardino Valley. We look forward to working with you to explore and define just what service arrangements can serve both clients of Loma Linda University Medical Center Adult Day Health Services Department.

Thank you for the opportunity that this represents to improve mobility within the San Bernardino Valley.

Sincerely,  
Vivian Hakimian Lopez, MPH, MHA  
Director, Adult Day Health Services



July 21, 2010

Ms. Beth Kranda  
Transit Programs  
San Bernardino Associated Governments  
1170 West 3<sup>rd</sup> Street  
San Bernardino, CA. 92410-1715

Dear Ms. Kranda:

We are writing in support of SANBAG's developing *Consolidated Transportation Services Agency* (CTSA). As we understand it, the CTSA will promote additional specialized transportation options for residents of the San Bernardino Valley who are seniors, are disabled or of low-income. The clients served by our agency are persons with significant disabilities receiving vocational rehabilitation services to return to work.

As we understand it, the CTSA expects to support a range of transportation alternatives and these could include directly operating transportation, contracting with agencies to provide transportation to targeted consumers, supporting vehicle maintenance or group purchasing of fuel or insurance. We recognize that this new organization is developing its service model and service components and many of these are as yet unknown. Our organization is particularly interested in expanding transportation assistance for our consumers with Victor Valley Transit Authority and MARTA.

While there are many details to develop in order to arrive at final service agreements, we are very interested in pursuing discussion of CTSA service options that would benefit our client base and are consistent with the overall mission and purposes of the developing CTSA for the San Bernardino Valley. We look forward to working with you to explore and define just what service arrangements can serve both clients of the Department of Rehabilitation and the new CTSA.

Thank you for the opportunity that this represents to improve mobility within the San Bernardino Valley.

Sincerely,

*Constance A. Bailey*

Constance L. Boring  
Rehabilitation Supervisor  
Department of Rehabilitation  
San Bernardino Branch Office  
(909) 383-4354

- San Bernardino County Transportation Commission ■ San Bernardino County Transportation Authority  
 ■ San Bernardino County Congestion Management Agency ■ Service Authority for Freeway Emergencies

## Minute Action

AGENDA ITEM: 18

**Date:** August 4, 2010

**Subject:** Fiscal Year 2010/2011 Transportation Development Act (TDA) Unmet Transit Needs Public Hearings

**Recommendation:\***

1. Adopt Definitions of "Unmet Transit Needs" and "Reasonable to Meet" as identified in Attachment A.
2. Set times, dates and locations for TDA Unmet Transit Needs Public Hearings.

**Background:** Each year the San Bernardino County Transportation Commission is required by Public Utilities Code Sections 99238.5 and 99401.5 to hold public hearings for obtaining testimony regarding unmet transit needs that can be reasonably met and must adopt findings prior to making an allocation of Local Transportation Funds (LTF) for street purposes. Per the Board action of 1993, a public hearing will not be held in the Valley as all LTF revenues are committed to transit. The information obtained at these hearings will be used in the planning and budget development of the affected transit operators for the subsequent fiscal year, as recommend in the transit operators' performance audit.

In January 2003, the Board approved the definitions of "unmet transit needs" and "reasonable to meet". An amendment to Section C – Equity, under the definition of "reasonable to meet", was approved by the board in September 2004. These definitions were the result of an extensive effort to update them with input from organizations representing the transit dependent and the affected transit operators during 2002. The California Department of Transportation has suggested that the definitions be reviewed and adopted on a periodic basis. The definitions were

Approved  
Board of Directors

Date: \_\_\_\_\_

Moved:

Second:

In Favor:

Opposed:

Abstained:

Witnessed: \_\_\_\_\_

X	COG	X	CTC	X	CTA		SAFE		CMA
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Check all that apply  
 BRD1008a-bk

again approved by the Board on July 2008. Attachment A contains the current definitions and no change is being proposed at this time. These definitions will be used to respond to the testimony received.

Two public hearings are proposed for this year with the locations being the Morongo Basin and Victor Valley. The Boards of the Morongo Basin Transit Authority (MBTA) and the Victor Valley Transit Authority (VVTa) will serve as the hearing boards at their respective locations.

The schedules for the proposed hearings are as follows:

**Upper Desert Region**  
September 20, 2010 at 9:30 am  
Victorville City Hall Council Chambers  
14343 Civic Drive  
Victorville, CA

**Lower Desert Region**  
September 23, 2010 at 5:00 pm  
Town of Yucca Valley, Yucca Room  
57090 Twentynine Palms Highway  
Yucca Valley, CA

**Financial Impact:** This item is consistent with the adopted FY 2010/2011 Budget. Funding for the public hearings is provided under Task No. 50211000 the funding source is LTF Administration.

**Reviewed By:** This item was reviewed by the Commuter Rail and Transit Committee on July 22, 2010 and unanimously recommended for approval.

**Responsible Staff:** Beth Kranda, Transit Analyst

## **Attachment A**

### **Definitions of “Unmet Transit Needs” and “Reasonable to Meet” adopted by the San Bernardino County Transportation Commission Board of Directors on July 1, 2009**

**Unmet Transit Needs:** Unmet transit needs are any deficiency in the provision of public transit services, specialized transit service or private for-profit and non-profit transportation.

**Reasonable to Meet:** Reasonable to meet is a determination to be made based upon the following guidelines, performance and financial standards:

**A. Community acceptance** – The proposed service has community acceptance and support as determined by the Unmet Transit Needs public hearing record, the inclusion of adopted programs and plans, the adoption of governing board positions and other existing information.

**B. Timing**

1. The proposed service shall be in response to an existing rather than future need
2. The proposed service shall be implemented consistent with the timing for federal and state grant approval if such a grant is the most appropriate primary method of funding.

**C. Equity** – the proposed service shall:

1. Not unreasonably discriminate against or in favor of any particular segment of the community.
2. Not result in reduced service levels for other parts of the transit system that have equal or higher priority.
3. Require a subsidy per passenger generally equivalent to a 120% of similar services being operated within the first two full fiscal years of operation unless overriding reasons so justify.

**D. Cost effectiveness** – the proposed service shall:

1. Not duplicate other existing transportation services or resources.
2. Consider opportunities for coordinating amount adjoining public entities or with private transportation providers and/or funding agencies in order to maximize existing

resources (including financial) as well as legal or customary responsibilities of other entities such as social service agencies, religious organizations and schools.

3. Not adversely affect the operator's ability to meet the required ratio of fare revenue to operating cost after two full fiscal years of operations.

4. Meet a productivity level of 80% of the average number of passengers per hour for similar services being operated within the first two full fiscal years of operation unless overriding reasons so justify.

**E. Operational feasibility** – The proposed service must be safe to operate, including the operation of vehicles on adequately maintained roadways.